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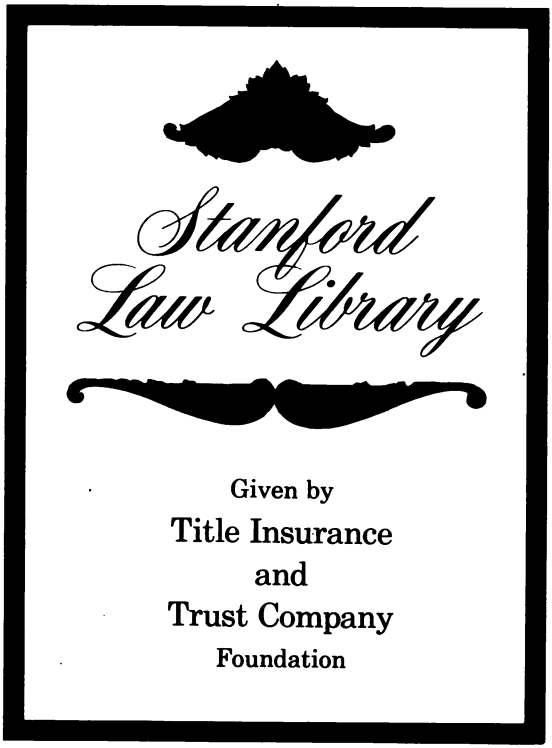
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IN

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SELECTED FROM THE MANUSCRIPT COLLECTION

OF THE LATE

JOHN JOSEPH POWELL, Esq.

AUTHOR OF THE LAW OF MORTGAGES, WILLS, AND OTHER VALUABLE LAW TREATISES.

Revised and Corrected:

WITH

NOTES AND REMARKS,

EXPLANATORY OF THE

NATURE AND EFFICACY OF THE SEVERAL DEEDS AND OTHER ASSURANCES CONTAINED IN THE COLLECTION.

By CHARLES BARTON,

OF THE INNER TEMPLE, Esq.

VOL. II.

LONDON:

Printed for W. CLARKE and SONS, Law Bookfellers, Portugal-Street, Lincoln's Inn.

1802.

W. Flint, Printer, Old Bailey.

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OF

APPOINTMENTS.

AN Appointment, when conſidered with reference to a ſet of precedents, delineating the form of the inſtrument known by that appellation, may be viewed in two diſtinct aſpects.

I. As a relative or dependant aſſurance originating under the ſtatute of uſes; and

II. As an irrelative and independent inſtrument, delegating an authority, or power of acting, from a principal to his agent.

In conſidering the nature of the firſt of theſe ſpecies of Appointments the mind is inevitably carried to the doctrine of POWERS, with which this inſtrument, when viewed in the light we are now to conſider it, is not only eſſentially connected, but by which it is abſolutely ſupported and governed; and hence, a perſon taking under an appointment, is conſidered, in notion of law, as taking under the power authoriſing ſuch appointment, "in the ſame manner as if his name had been inſerted in Powers.

the inſtrument itſelf, by which the power is created, with this diſtinction only, that he muſt take according to the natures of the power, and of the appointment, (or inſtrument executing the power,) *conſidered together;*" as, for example, if the appointment be made by *deed*, the eſtate appointed will immediately veſt in the appointee, in like manner as if he had been named in the inſtrument creating the power, but if the appointment be made by *will*, the appointee will be conſidered in all reſpects as a *deviſee*, and ſubject to the ſame chance of lapſe, in caſe of his death in the life time of the deviſor, as is incident to the ambulatory nature of a will. See *Co. Lit.* 80. 2 *Durn.* and *E. Rep.* 241, 251. *ib.* 737.

But as the doctrine of powers is not only fully and ably diſcuſſed in the eſſay of Mr. POWELL upon that ſubject, (and is alſo attempted to be inveſtigated in the ELEMENTS OF CONVEYANCING, to which the preſent Collection of Precedents is partly intended in the nature of a SUPPLEMENT,) but may more properly be introduced under a future head, I ſhall here confine myſelf to the nature and properties of the *derivative* inſtrument alone, viz. the inſtrument of *Appointment*, and this I ſhall conſider,

1. With reſpect to its Nature and Efficacy, and

2. With reſpect to its Form.

I. OF APPOINTMENTS MADE IN EXECUTION OF POWERS.

1. *With Reſpect to the Nature and Efficacy of an Appointment under the Statute of Uſes.*

Appointments in execution of powers.

As to the nature and efficacy of an appointment, it is apparent from what has already been ſaid, that as the execution of a power of appointment is conſidered as a part of the deed out of which the power ariſes, it is neceſſary, in order to the validity of an appointment, that the limitations attempted to be effectuated by it ſhould be ſuch as would be valid, had they been inſerted in the deed by which the power to appoint was given.

Hence the limitations ſometimes to be found in haſtily-prepared marriage ſettlements, to the *unborn* children of an *unborn* child, as purchaſers are ineffectual. See Marlborough *v.* Godolphin, 2 *Durn.* and *E. Rep.* 251. To children, &c.

So neither, for the ſame reaſon, can a power of appointment to *children*, be executed in favour of *grandchildren*, where the children themſelves are yet unborn at the time of creating the power. Robinſon *v.* Hardcaſtle, 2 *Durn.* and *E. Rep.* 241. See alſo 4 *Ib.* 737, and 1 *Ca. Op.* 35.

From the ſame principle, alſo, it follows, that it is incident to an appointment to defeat or vary all limitations in the deed, creating the power to appoint, made ſubſequent to the creation of the power. This may be inſtanced in the common limitation in marriage ſettlements, in uſe to the huſband for life, remainder to the wife for life, and, after the deceaſe of the ſurvivor, to the uſe of ſuch perſons for ſuch eſtates, and ſubject to ſuch powers as the huſband and wife ſhall jointly appoint, and in default of appointment, and ſubject thereto, to the uſe of the huſband, in fee, under which limitation the uſe is immediately executed in the huſband and wife for life, with remainder to the huſband alone, in fee; but the moment that they appoint the eſtate under this power in any other manner, the uſe hitherto executed in the huſband in fee, is ſhifted by the operation of the ſtatute of uſes, from him to the appointee, in whom it will veſt preciſely in the ſame manner as it would have veſted had a ſimilar limitation been made to him in the deed creating the power to appoint. The *uſe* veſting in him by the *appointment*, and the *poſſeſſion* by the *ſtatute*, (which union of the uſe and poſſeſſion conſtitute what is termed the *legal* eſtate). To ſuch uſes as huſband, &c. ſhall appoint.

And hence, likewiſe, it follows, that an appointment can never be made to an *uſe*, for as the appointment itſelf transfers the *uſe* to the appointee, and the ſtatute the *poſſeſſion*, any ulterior limitation to uſes would be limiting an uſe upon an uſe, which is not executable by the ſtatute. An executed uſe may, however, be limited upon *truſt* for any

purpoſes the appointor may chooſe, for as truſts are under the control of courts of *equity*, which regard the intention of the parties more than the legal efficiency of the inſtrument, the *ceſtui que truſt* will there be compelled to take the truſt as limited.

Appointments by feme coverts.

2. *Of Appointments made by Feme Coverts for the Purpoſe of transferring their ſeparate Property.*

WHERE a feme covert poſſeſſes property independently of her huſband, as ſhe frequently does through the medium of truſtees named for that purpoſe, on her marriage ſhe is allowed in equity to exerciſe a diſpoſing power over it, notwithſtanding her coverture, and the inſtrument by which ſhe exerciſes this power, whether it be in the ſhape of an appointment properly ſo called, or of a will, or other inſtrument, is termed and conſidered as taking effect as an appointment *(a)*. See alſo *poſt.* p. 10.

(*a*) It was for a long time queſtioned whether a married woman could execute a good conveyance of *real* eſtate, even though ſettled to her ſeparate uſe, by any other means than a power of appointment, or a fine; but it is now ſettled, that any covenant entered into, or conveyance made, by her reſpecting her ſeparate property, provided a ſtipulation be made to that purpoſe on her marriage, will be void in equity, and that as well where the ſubject of it is a legal eſtate. Rippon *v.* Dawding, *Amb.* 565, as a truſt eſtate, Wright *v.* Cadogan, 6 *Br. Par. Ca.* 156, but ſuch ſtipulation will, with reſpect to the *real* eſtate of the wife, extend to thoſe lands, &c. only which ſhe poſſeſſed at the time of the marriage, and not to thoſe which may have ſince deſcended to or been purchaſed by her, unleſs the covenant or ſtipulation expreſsly refer to eſtates ſubſequently accruing, as well as to thoſe then in her poſſeſſion, 2 *Vez.* 190, nor will the mere ſettling ſuch eſtates upon the wife, as a *feme ſole*, without a power given to her to convey them, empower her to

3. *Of the Mode of framing a Deed of Appointment, under the Statute of Uſes.*

Though a deed of appointment is a *derivative* inſtrument, taking its effect, in a great meaſure, from the deed under which it originates, yet it is not neceſſary that ſuch deed ſhould be expreſsly recited, or otherwiſe referred to, ſo that either from the inoperativeneſs of the inſtrument, unleſs as an appointment, or from other circumſtances, it *be apparent that the inſtrument was intended as an execution of the Power*. See *Moor*, 567. *Cro. Eliz.* 877. *Cro. Jac.* 34. 6. *Co.* 17. Alſo 1 *Atk.* 441. 559. 659. But this diſtinction has been taken (with reference to ſuch intention) between the caſes where the power *is*, and

Power need not be rented.

---

to make a diſpoſition of them, for ſuch a diſpoſition would, in favour of the heir-at-law, be deemed to have been done at the inſtigation of the huſband; in ſuch caſe therefore ſhe can convey only by fine levied on a ſecret examination as to the freedom of her conſent. 2 *Vez.* 192. With reſpect to *perſonal* property, however, a power to diſpoſe of it either by deed or will, is incident to its being ſettled to the wife's ſeparate uſe, without any expreſs authority being given to her to diſpoſe of it; and ſo alſo, with reſpect to perſonal property, it ſeems to be the better opinion, that a general covenant by the huſband previous to the marriage, that the wife ſhall have liberty to diſpoſe of it as if ſhe were ſole, will extend as well to ſuch property afterwards accruing, as to that which was expreſsly cited in the ſettlement, if ſuch can be fairly inferred to have been the intention of the parties; 4 *Vin. Abr.* 131, *pl.* 8, but otherwiſe it ſhould ſeem, where no ſuch intention can be fairly preſumed, *ib. pl.* 7.

☞ See a moſt learned and inſtructive inveſtigation of the nature and effect of Appointments, and of the powers from which they proceed, by Mr. Butler. *Co. Lit.* 8vo. 271, *b. n.* (1). See III. 4. and *ibid.* 342, *b. n.* (1). And ſee alſo *Pow. Eſſay on the learning of Powers, Paſſim. and Pow. Wood* "On Appointments."

Difference where power recited and where not.

where it is *not* recited in the deed by which it is executed, that where an eſtate is conveyed with a reſervation of a power of appointment, and the perſon ſo reſerving the power, executes a conveyance, which from its nature, &c. may take effect, either as operating upon the legal eſtate remaining in (or rather *reſulting* to) him, or as an execution of ſuch power, and no reference be made, the deed out of which the power ariſes; the deed or will, will take effect out of ſuch remaining or *reſulting* eſtate, and not be deemed to be an execution of the power. Theſe poſitions may be exemplified by the common mode of conveyance to the *uſe* of ſuch perſons, and for ſuch eſtates as the grantee ſhall by deed or will appoint, in which caſe the uſe veſts by operation of law in the grantor as of a *qualified* fee, *i. e.* a fee ſubject to be defeated by an appointment under the power, and if in this caſe the grantor limit the eſtate in *purſuance of the power* reſerved to himſelf, for the purpoſe, it will take effect, as an eſtate limited by the original inſtrument, or deed *creating* the power, and the inſtrument *executing* the power will operate ſimply as a declaration of the uſes, but if on the other hand the grantor execute a conveyance calculated to paſs the land itſelf, without any reference to the deed creating the power, then ſuch conveyance will be conſtrued to paſs the *land* and not merely the uſe as an execution of the power, for the grantor having in him both an *eſtate*, and a *power* of limiting as *uſe*, either of which he may execute at his election, it is fair to preſume that the form purſued by him, was meant as an indication of intention to paſs his proprietory eſtate, in preference to limiting an eſtate under the power, 1 *Vent.* 225. 1 *Atk.* 559.

Rule of conſtruing an appointment.

Where however, it remains doubtful, after a full conſideration of all the circumſtances, whether the ſettler intended to execute his power, or to act as independent owner of the eſtate, the rule is to conſider the inſtrument as a conveyance of the eſtate, and not as a limitation of the uſe. See *Brown* and *Taylor. Cro. Car.* 38. And ſee *Jenkins* and *Keymis*, 1 *Ch. Ca.* 103.

To prevent any doubt therefore, with reſpect to this

matter, (as well as for the reaſons hereinafter mentioned,) it is proper, and indeed ſomewhat *eſſential*, that all incidental circumſtances directed by the perſon giving the power, to be obſerved in the execution of it, as the conſent of third perſons, atteſtation of witneſſes, &c. ſhould be rigidly attended to, 1. *Co.* 144. *Hob.* 312. *Prec. Ch.* 452. 3 *Ch. Ca.* 70, 107, *Moore* 261. *Dy.* 372. 2 *P. Wms.* 506. For the material queſtion to be decided in doubts of this ſort, is not whether the inſtrument deſigned as an execution of the power, be of *itſelf* (as an independent conveyance) ſufficient to paſs that which is the ſubject of the power; but whether it preciſely *anſwers* the deſcription, in both form and circumſtance, of the inſtrument by which the creator of the power choſe to preſcribe as a *ſine qua non* of its execution, for as the owner of the eſtate has a right to annex any form that he chooſes, however arbitrary, to the execution of a power originating in his own arbitrary will, the appointee under the power, can of courſe have no title to the thing appointed, unleſs theſe forms are purſued. But the eſtate muſt, as in other caſes of a defective conveyance go to the heir at law, or perſonal repreſentatives of the original proprietor, 3 *Ch. Ca.* 55, 2 *Freem.* 193.

Directions of the power muſt be obſerved.

And this neceſſity of an appointment being made with a ſtrict conformity to the requiſitions of the power under which it is derived, together with the liability of ſuch power to be extinguiſhed or ſuſpended, has given riſe to the uſe of every precaution that can readily be obtained for ſecuring an effectual aſſurance to purchaſers deriving their title under this ſpecies of conveyance; hence the perſon poſſeſſing the *legal eſtate* is, as often as his concurrence can be procured, made to join in the conveyance in ſuch manner as is calculated to paſs the fee, and ſecure a perfect eſtate to the purchaſer, in the event of the appointment being inoperative. See further obſervations upon this head, together with other practicable remarks, hazarded upon the principle on which they are founded, *Elem. Conv.* Book II. Par. III. and ſee alſo 1, *Peav. Wood*, 498. n. (*a*)

Why appointment accompanied by leaſe & releaſe, &c.

Exceptions. This rule, however, like moſt others founded upon notions of law, admits of ſome qualification when affected by circumſtances which bring it within the cognizance of our courts of equity; for where the appointee is not merely a *volunteer* but a purchaſer for a *valuable conſideration*, thoſe courts regard the *end* and *intention* of the power, rather than the *form* of its execution, *a.* 1 *Eq. Ca. Ab.* 296, 2 *Vez.* 642.

But the caſes and obſervations ſubſervient to this head, relate rather to the *conſtruction* of appointments which have been *defectively* made, or in other words, the juriſdiction of courts of equity, in ſupplying a *defective execution* of powers, than to the form in which they ought in ſtrictneſs to be prepared; for the learning on this part of the ſubject of appointments, I ſhall refer the reader to ſuch

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(a) Powers ariſing out of *uſes* were originally cognizable by courts of equity alone, as there was no mode of reſerving a power at common law but by means of a *condition*; when, however, the ſtat. Hen. 8, transferred the *poſſeſſion* to the uſe, they became *legal* eſtates, and conſequently fell under the juriſdiction of the courts of law. But as conditions operating to *defeat* a *veſted* eſtate were diſcountenanced as odious, ſo powers (which include a power of *revocation* as well as of appointment) when they fell under their juriſdiction, were conſidered in the ſame odious light, for the ſame reaſon; hence it was required that every circumſtance, preſcribed by the creator of the power, to be obſerved in its execution ſhould be rigidly attended to before an old eſtate could be diveſted or a new one created. This rigid conſtruction of powers was not only repugnant to the very nature of powers, but alſo, in many caſes, particularly in marriage ſettlements, (where the proviſion for younger children is generally made by means of powers of appointment,) militated againſt theſtrongeſt claims of natural equity. Hence the courts of equity took occaſion by degrees to reſume their original juriſdiction on the ſubject of powers, (which in ſtrictneſs was not abrogated by the ſtatute of uſes) and again interpoſed for the purpoſe of ſupplying defects in their execution, whenever the juſtice of the caſe appeared to require it. 2 *P. Wms.* 227, 490.

authors as have profeſſed to embrace the *whole* doctrine of powers. The moſt comprehenſive treatiſe upon this ſubject is Mr. Powell's eſſay on the learning of powers; and ſome valuable obſervations upon that particular diviſion of the ſubject to which I have juſt alluded the ſtudent will find in 1 *Pow. Wood* 471. as alſo in the annotation of Mr. Butler, referred to in a preceding page.

Some further obſervations ſtill however, remain to be made, with reſpect to the mode of executing a power of appointment.

Power of appointment includes revocation.

An appointment may be either abſolute, or accompanied by a power of revocation, for it has been determined, that a ſimple power of appointment includes in itſelf, from its very nature and eſſence, a power of *revocation* in the appointor, without any expreſs authority being given for that purpoſe. See *Cowp.* 651.

Exception.

An appointment may alſo in general be made at different times, upon *different* parts of the eſtate, though not upon the ſame part twice, unleſs there be reſerved in ſuch appointment, a power of revocation and new appointment. See 1 *Vern.* 85. 2 *Bur.* 1136. *Black. Rep.* 281.

As to appointments to children, by virtue of a power contained in the marriage ſettlement of their parents. See a good opinion of Meſſrs. *Filmer* and *Booth*, 1 *Ca. Op.* 35.

Power muſt be executed by the appointor himſelf.

An appointment muſt be executed by the perſon himſelf, to whom the power to appoint is given, and the power cannot be delegated by him to a third perſon, an appointment therefore to ſuch perſon, or to ſuch perſons by name, in ſuch manner, &c. as ſuch an one ſhall think fit, or the like, will be void, on the maxim that the perſon having the primary power to appoint, is himſelf but in the nature of an attorney, poſſeſſing a delegated authority, and *delegatus non poteſt delegare.* See 2 *Atk.* 88. 2 *Vez.* 640. *Cowp.* 651. 2 *Bro. Ch. Rep.* 22.

Exception.

Unleſs indeed the power of appointment be expreſsly given to the appointor and *his aſſigns*, in which caſe an appointment made by ſuch aſſignee will be good; and a deviſee will be conſidered as an aſſignee under ſuch a power. 1 *Ventr.* 338. *Sir T. Jones* 110. 2 *Show.* 57.

And ſee *Moore* 855, and *Hob.* 9, as to an *executor* being conſidered as an *aſſignee* under a power of this ſort.

II. Of Appointments delegating an Authority for one Perſon to Act for another.

Who are capable of executing an authority.

The transferring of that natural power of acting, which every man has to another, is termed an *authority*, by which the acts of another are allowed to be performed, for as a contract or agreement by any perſon is nothing elſe than an aſſent of his mind to the thing in ſtipulation, it would be very unreaſonable, where ſuch aſſent expreſsly appears, to oblige the parties in every caſe to be perſonally preſent at the execution of it, when it can in its nature be as well performed by any other perſon properly authoriſed for the purpoſe.

Infants feme coverts, &c.

And as the execution of a mere or naked authority cannot be attended with any inconvenience to the perſon by whom it is delegated, even infants, feme coverts, perſons attainted, outlaws, aliens, &c. may be attornies, *Perk.* 187, *Co. Lit.* 52. a, and therefore though the feme covert, be delegated to deliver ſeiſin to her huſband, or he in remainder to the tenant for life, *Co. Lit.* 52. a. *Perk.* 148. 199. it will be good, and alſo where a huſband *ceſtui que uſe* deviſed that his wife ſhould ſell his land, it was holden that a ſale to her ſecond huſband was good, for this is a mere naked authority, executed by the wife to the purchaſer, who is in not by her, but by the deviſor, *Co. Lit.* 112, a. *Jones* 137. *Salk.* 239, 1 *P. Wms.* 149.

And whether ſuch authority be given before or after coverture, and though no ſpecial proviſion is made to obviate the diſability of coverture, it will make no difference.

And even though an *intereſt* as well as an authority paſs to the wife, yet if the authority do not flow from, but be collateral to the intereſt, it will be the ſame, becauſe it is, in ſuch caſe, the ſame thing as if the intereſt and the authority reſided in two diſtinct perſons, *Rep. T. Finch*, 346.

And as a wife may execute a mere authority or power,

ſo may ſhe perform a condition without the concurrence of her huſband. *W. Jones* 137, 138, both caſes being founded upon the ſame reaſon, namely the impoſſibility of any detriment arifing to the huſband, by her acting in matters concerning which he has no intereſt, and the inconvenience which might ariſe were his concurrence neceſſary.

To the inquiring ſtudent, it will be proper however, to notice that a diſtinction has been attempted between a mere *power* or *authority*, or a *condition*, and a *truſt*. *Jones* Juſt. holding in the caſe of *Daniel* and *Uply*, (*W. Jones*, 137,) that where the legal eſtate of land was veſted in a *feme covert* upon truſt for another, ſhe could not convey it to the *ceſtui que truſt*, without the huſband joining, and though *Whitlock* and *Dodridge* were of a different opinion, yet *Mr. Hargrave* appears to have thought, and with great reaſon, that the opinion of *Jones* is more conformable to ſtrictly legal doctrines, and very rationally accounts for *Jones's* diſtinction between a *truſt* and a *power*, or a *condition*, by obſerving, that *truſts* are properly the ſubjects of *equitable* cognizance only, they being ſcarcely ever recognized by courts of law, purely as *judiciary eſtates*. See *Co. Lit.* 112, *a.* n. (6). Diſtinction between a power and a truſt.

It ſeems that the delegation of an authority muſt be by *deed*, the reaſon given for which, is, that it may indiſputably appear that the perſon appointed has actually a power of repreſenting his principal, and to what extent. 2 *Roll. Ab.* 8. *Co. Lit.* 48. *b. Salk.* 96. But as an authority in *writing merely* (without ſealing and delivery, which conſtitute a *Deed*,) ſeems to be equal evidence of theſe circumſtances, and *nothing paſſes* by the delegation, the reaſon of a *deed* being eſſential to its validity, does not ſeem to be very eaſily explained. How an authority may be delegated.

And as the attorney takes nothing by the deed, but has merely a naked authority given him, it is not neceſſary that he ſhould be party to the deed appointing him, even though the deed be an *indenture*, which ſuppoſes two parts at the leaſt, and "as a man may *take an eſtate in remainder*, without being party to the deed, a *fortiori* may he

take, a naked power or authority. *Touch.* 217. and see 2 *Roll. Ab.* 8, 9.

How an authority is to be purfued and executed.

A difference has already been intimated between a *naked* or *mere* authority, and an authority *coupled with an intereſt*, and this difference in the old books is very ſtrongly taken, where upon this diſtinction, it is laid down, that a deviſe that the teſtator's executors ſhall ſell his lands, gives but a naked authority, and the lands will not veſt in the executors, but deſcend to the heir till the ſale is made. And further, that as the will in ſuch caſe gives a mere authority, *all* the executors muſt join in the ſale, and conſequently if either of them die, it cannot be executed at all, as for want of an intereſt it will not ſurvive. *Co. Lit.* 112, 113, 181. See the caſes confirming and controverting this diſtinction, induſtriouſly collected, and ingeniouſly applied by *Mr. Hargrave*, *Co. Lit.* 8vo. 113, *a.* 2. (2) from the reſult of which he inclines to the opinion, that a power given to executors to ſell lands, is capable both of *tranſmiſſion* and *ſurvivorſhip*, and abundant reaſon there appears for ſuch combination of opinion, for as to *tranſmiſſion*, it is ſaid *Kelw.* 44, 2 *Brown* 194. that, if a power (*i. e.* a power not coupled with an intereſt,) be given to executors, it will *paſs to his executors and adminiſtrators*; and with reſpect to *ſurvivorſhip*, if ſuch a power be tranſmiſſable, in the way of ſucceſſion, in infinitum, till executed by reaſon of its being given to executors, much more it ſhould ſeem would it ſurvive; beſides, it can ſcarcely be imagined, as *Mr. Hargrave* obſerves, (*ub. ſupr*) that a teſtator "when he entruſts his executors with a power of ſelling land, ſhould mean to have thoſe for whoſe benefit he directs the ſale, diſappointed by the death of one of the perſons inveſted with an authority, which the ſurvivor is equally capable of executing."

Diſtinction between power of ſale given to executors, and a deviſe to them to ſell.

Qualification of the diſtinction.

But this diſtinction though deſerving notice, leſt the ſtudent ſhould be haſtily led away by the current of ancient authorities he may happen to meet with, is not now of any material importance, for whether ſuch a power be extinct or not at *law*, it has long been the practice to enforce it in *equity*; our courts of equity conſidering the object of the ſale to be the ſubſtantial part of the deviſe, and the

perſons directed to ſell, as mere truſtees, it therefore falls within the general rules of its juriſdiction over truſts. See, as to this point in particular, the caſes collected, *Co. Lit.* 8vo. 113, *a. n.* (2) and as to the general doctrine upon this branch of authorities, 1 *Bac. Ab.* 8vo. 315, (*c*).

So at the common law, if one of the executors empowered to ſell lands refuſed, the others could not ſell, but now by ſtat. 21. Henry 8, c. 4, though ſome of thoſe to whom the power is deviſed refuſe, yet the reſt may ſell (*a*) *Co. Lit.* 113. 181.

Theſe remarks upon the deviſe of an authority, may appear to the ſtudent to be irrelevant here, as relating more properly to the head of WILLS, but as ſuch an authority whether delegated by will or by deed, receives the ſame conſtruction with reſpect to the mode in which it is to be executed, they are admitted, as perfectly appoſite, to illuſtrate the ſubject now under conſideration.

Authority to be executed in the name of the principal.

When a perſon is authorized to do a thing for another, it is more regular to do it in the name of the perſon giving the authority, 9 *Co.* 76 *b. Lord Raymond* 1418, *Stra.* 705, *Salk.* 96. *Roll. Ab.* 331. But this does not ſeem to be eſſential, for executors having power to ſell lands, may do it in their own names, *Roll. Ab.* 331, and wherever a man does an act which cannot be effectual, otherwiſe than as done by virtue of his authority, it ſhall be deemed to have been ſo done, and valid though done in his own name, inſtead of the name of his principal. See *Salk.* 95, 96.

(*a*) As may alſo ſuch of thoſe to whom land is deviſed to be ſold as are willing, though the others refuſe, only that they cannot ſell to the executor refuſing, who ſtill continues executor and privy to the will. *Co. Lit.* 113, 181. Hence *Coke* obſerves *ubi ſupra*, that it is the ſafeſt way in empowering *executors to ſell*, by a deviſe, to limit it to the ſurvivors or ſurvivor, or thoſe that prove the will, &c. and when an eſtate is deviſed *to executors to be ſold*, it is adviſable to appoint that the profits taken by them before the ſale, ſhall be aſſets, for otherwiſe they ſhall not. *Co. Lit.* 113, *a.* See *quere*, as to this latter poſition.

Where however, he has an *intereſt* as well as an authority, he muſt be careful in executing his authority, to declare that the act done by him, be in execution of ſuch authority, for it will otherwiſe be preſumed to have been done by virtue of his intereſt *ib.* and 6. *Co.* 18. *a. Co. Lit.* 111. *b. Hob.* 160. 1. *Atk.* 559.

Authority muſt be perſonally executed,

As the delegation of an authority to another, is founded upon a confidence repoſed in the party to whom it is delegated, an authority muſt be perſonally executed by himſelf, and cannot be aſſigned or transferred by him to another, (*a*) 9 *Co.* 77, *b. Roll. Ab.* 330.

Whence it is holden that a deputy cannot appoint a deputy, nor a perſon having a power of attorney, delegate his power to another, unleſs there be an expreſs authority for him to do ſo contained in his power.

And ſo upon the general principle, that authorities are not aſſignable, it is held that a leſſee for life, with the uſual powers to grant leaſes, rendering the ancient rent, &c. cannot make them by attorney, but muſt execute them perſonally, 2 *Roll. Ab.* 393, 9 *Co.* 76.

and in the life-time of the principal.

So too, muſt an authority given by letter of attorney be executed in the life time of the perſon giving it, for as the attorney is the repreſentative *pro tanto*, of his principal, it follows that his power muſt neceſſarily be diſſolved, when the perſon whom he repreſents is no more, *Co. Lit.* 52, *b.* 2 *Roll. Ab.* 9, *Plow.* 457, unleſs when the authority is given by deviſe, or by ſpecial cuſtom, *Co. Lit.* 8vo. 52, *b. Hal. MSS.*

Licence to alien.

But it is otherwiſe where an intereſt paſſes with the authority, as where a leſſee is reſtrained from aliening without licence, and he obtains licence, but the leſſee die before it is uſed, in this caſe the licence is not vacated, *Co. Lit.* 52, *b.* becauſe the licence operates as an exemption from the penalties attached to alienation without licence,

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(*a*) But quere, whether executors having power to ſell, cannot do it by attorney, though the above authorities ſeem contrary.

and is therefore in the nature of an *agreement executed* on the part of the leſſor, and therefore, though the leſſor in this caſe ſhould grant his eſtate over, yet the licenſe will continue good, and bind the grantee, *Co. Lit.* 52, *b. Cro. Ja.* 103.

☞ *Some of the preceding Points reſpecting the Nature and Operation of Appointments, may receive Illuſtration from the two following Caſes and Opinions in my Poſſeſſion.*

Caſe. By a bargain and ſale, and a recovery thereupon ſuffered, lands were limited to the uſe of *M. R.* for life, and from and after his deceaſe, to the uſe of *ſuch perſon* and perſons, and *for ſuch eſtate* and eſtates, and under and ſubject to ſuch power, &c. as *M. R.* and *O.* ſhould, by deed executed by both of them, direct, limit, and appoint, and in default of and in the mean time, ſubject to ſuch appointment, &c. to the uſe of *O.* his heirs and aſſigns. And by a ſubſequent leaſe and releaſe and appointment, *M. R.* and *O.* granted, bargained, ſold, and releaſed, and alſo *in purſuance of the above power and authority*, and of all other powers, &c. they *directed, limited, and appointed, the lands unto H. L.* his heirs and aſſigns, to hold unto *H. L.* his heirs and aſſigns, to the uſe of *O.* his heirs and aſſigns, for ever.

Opinion. Upon this limitation it is to be obſerved firſt, that by virtue of the bargain and ſale, and ſubſequent recovery, and the ſtatute, the uſe was executed in *M. R.* for life, and the uſe in the remainder, in fee, was alſo executed in *O.* but the latter uſe was liable to be poſtponed, abridged, diveſted, or defeated, by the execution of the power in the ſame way as it would have been upon the birth of a ſon, in caſe there had been an intermediate limitation to his firſt and other ſon in tail, the one depending on the act of God, the other depending on the act of man. Now when they make the leaſe and releaſe and the appointment, (the latter of which deed is however unſkilfully prepared, inaſmuch as two diſtinct forms are blended together, viz. the grant and releaſe, with the directions

and appointment,) I apprehend the leaſe and releaſe would operate to paſs the ſeiſin or poſſeſſion to *L.* for the life of *M.* and they would have alſo paſſed the ſeiſin in *O's* remainder, in fee, and as the whole uſe is afterwards expreſſed to be limited to *O.* in fee, the ſtatute would have drawn from *L.* the poſſeſſion, and executed it in *O.* IF THE DEED HAD CONTAINED NOTHING MORE THAN THE BARE RELEASE. But when *M.* and *O.* expreſsly in purſuance and exerciſe of the power, (which, it muſt be *remembered,* was *prior to, and took place of* the limitation of the remainder in fee, to *O.*) join in directing, limiting, and appointing, *unto L.* and his heirs, they perform the particular and very act which would diveſt or defeat the old uſe, or old remainder in fee, in *O.* and would give birth to and eſtabliſh a new uſe, and the direction, limitation, and appointment, unto *L.* and his heirs, muſt, in this caſe, have preciſely the ſame effect as if it had been *to the uſe* of him and his heirs, for this is an appointment and limitation of *an eſtate* to him, which limitation, ſo far as it operates under the power, muſt of courſe carry the uſe to him as the appointee, for the words of the power are, " to the uſe of ſuch perſon and perſons, and for ſuch eſtate and eſtates, &c. and beſides, this limitation is incapable of any other effect under the power, as it could not transfer the mere naked ſeiſin or *ſcintilla juris,* which is ſuppoſed to remain in the recoveror, in the common recovery, to ſerve and feed the uſes created, and to ariſe under that recovery, or, in other words, to ſerve the uſes to ariſe under the execution of the power of appointment, reſerved to *M.* and *O.* when ſuch uſes ſhould come in eſſe, and therefore immediately upon the appointing and limiting of ſuch new eſtate or uſe to *L.* and his heirs, the ſeiſin or poſſeſſion was, by the operation of the ſtatute, inſtantaneouſly drawn from the recoveror, and veſted or executed in *L.* who thereby took the legal eſtate, as it is uſually called, in the remainder, in fee. *L.* having thus acquired the uſe under the appointment, and the poſſeſſion under the ſtatute, conſtituting together the legal eſtate in the remainder in fee, the leaſe and releaſe would now

have an effect which they would not have had in caſe there had been no ſuch appointment, for *M.*'s eſtate for life would, as before obſerved, paſs by the leaſe and releaſe to *L.* and as it would then meet and unite with the legal remainder in fee, veſted in *L.* as above, by the union thereof, (*i. e.* the eſtate for life and the immediate remainder in fee,) in one and the ſame perſon, the eſtate for life was inſtantly merged and extinguiſhed in the remainder, in fee, and that by theſe means *H.* became abſolutely ſeiſed of the whole uſe or legal eſtate, in fee ſimple, in poſſeſſion, which could not be withdrawn from, nor diveſted out of him, by the ſubſequent declaration or limitation, in the deed of ——, although expreſſed to be to the uſe of *O.* and his heirs, ſuch limitation being preciſely the ſame as if the expreſſion had been "in truſt for *O.* and his heirs," as there cannot be an uſe limited upon an uſe, or two legal eſtates in fee ſimple, veſting at the ſame time. In ſupport of this opinion, it is only neceſſary to remark, that uſes and truſts were before the ſtatute of uſes the ſame thing, and that in the ſtatute, uſes, truſts, and confidences, are repeatedly called by the ſame name, and uſed as ſynonimous terms, ſo that when a man grants and releaſes to *A.* and his heirs, to hold to *A.* and his heirs, to the uſe of *B.* and his heirs, to the uſe of *C.* and his heirs, or even when a man grants and releaſes to *A.* and his heirs, to hold to *A.* in truſt for *B.* and his heirs, to the uſe of *C.* and his heirs, here the ſtatute executes the firſt uſe in *B.* who would take the legal fee in the ſecond as well as in the firſt of theſe caſes, for both are equally within the words of the ſtatute, and in the ſecond caſe the law conſiders the words "in truſt for *B.*" as ſynonimous with, and tantamount to the words "to the uſe of *B.*" and alſo conſiders the words "to the uſe of *C.*" as tantamount to the words "in truſt for *C.*" But in both theſe caſes it is evident that the parties did not intend that *B.* ſhould enjoy any beneficial intereſt; therefore a court of equity ſteps in, and laying hold of the intention, declares, that in conſcience *B.* is only a truſtee for *C.* who ſhall take what is called the equitable fee—and this

Dyer 155, Cro. Eliz. 382, 1 Leon. 6, 148. 1 Rep. 137, a. 1 Atk. 591.

Vaugh. 50.

1 Hales, P. C. 248.

2 Black. Com. 336. 1 And. 87, 313. Dyer, 155 Black. 336, uſes theſe words as having the ſame ſignification.

1 Atk. 591.

equitable fee is the whole of what *O.* took under the releaſe and appointment of 1770. And this is conſiſtent with the doctrine laid down in Chudleigh's caſe in *Coke*, 126, *a.* 136, *a*, &c. for all the requiſites there pointed out to the execution of an uſe by the ſtatute, are, in the preſent caſe, to be found in the recoveror, in *L.* and in the eſtate appointed to *L.* which could only be an uſe in eſſe. *Pow. MSS.*

N. B. Under the foregoing limitation *M.* and *O.* might have conveyed in another manner, viz. by joining in a deed, whereby, in purſuance and execution of their power aforeſaid, they might have directed, limited, and appointed, that ſubject and expectant upon *M.*'s eſtate for life, the lands ſhould go, remain, &c. unto *O.* and his heirs; or they might have directed, limited, and appointed that (ſubject as aforeſaid,) the lands ſhould go, remain, and be *unto*, and that the recoveror in the ſame common recovery, and his heirs, would ſtand and be ſeiſed thereof, to the uſe of *O.* and his heirs. By an appointment in *either* of theſe terms, although the latter mode would have been more correct and formal, the immediate legal remainder in fee would unqueſtionably have been veſted in *O.* and then *M.* by another deed, to have been dated and executed the day *after* ſuch appointment, might have ſurrendered his eſtate for life to *O.* who would thus moſt clearly have acquired the whole legal eſtate in fee ſimple, in poſſeſſion—ſo it might have been effected by *M.*'s ſurrendering his eſtate for life, at once to *O.* without executing the power.

Caſe. Lands were limited to *H. S.* and his aſſigns, for his life, remainder to the uſe of ſuch perſon or perſons, and for ſuch eſtate and eſtates, &c. with or without power of revocation, as the ſaid *H. S.* and *C. W. S.* his ſon, ſhould appoint, and for default of ſuch appointment, to the uſe of the ſaid *C. W. S.* his heirs and aſſigns, for ever. *C. W. S.* was deſirous of raiſing a ſum of money by way of mortgage of theſe premiſes, without the privity of his father, and the queſtion was whether *C. W. S.* could make a good title to a mortgage of his reverſionary intereſt in ſuch eſtate, and by what mode of conveyance.

The eſtate ſtands ſubjected to the joint appointment of the father and ſon, and therefore the only objection to a title to be made by the ſon alone, of his reverſion, is the poſſibility of his hereafter joining with his father in the execution of ſuch power of appointment; a fine *come ceo*, by the perſon having ſuch a power of appointment alone, will in general deſtroy that power; and I incline to think, that ſuch a fine by *C. W. S.* would have that effect in the preſent caſe, if ſo he might by leaſe and releaſe, and a fine, (accompanied with a releaſe of his power of appointment,) convey the lands to and to the uſe of the mortgagee in fee, ſo as thereby to make him a title. But though upon the principles applicable to theſe caſes, I think that a title may be thus made in this caſe, yet, as this is not the caſe of a ſole but of a joint power of appointment, I cannot venture to ſpeak ſo peremptorily in regard to it, and would recommend it to the perſon advancing the money, not to proceed on my ſingle opinion. Opinion.

C. F.

PRECEDENTS

OF

DEEDS OF APPOINTMENTS.

I. Appointments to Purchasers.

An Indenture of Revocation, Appointment, and Releaſe, of Lands, &c. (executed under a Power,) to a Purchaſer, very ſpecial.

PURCHASES.

This indenture, made the — day of —, in the — year of our Lord Chriſt ——, and in the — year of the reign of our ſovereign lord *George* III. &c.

Parties. Between *C. J.* of ——, in the pariſh of ——, in the county of ——, eſq. and *A. T.* of ——, eſq. of the firſt part; *G. W.* late of ——, in the county of ——, in that part of *Great Britain* called *Scotland*, and now of ——, and *S.* his wife, of the ſecond part; *C. K.* of ——, in the county of ——, ſpinſter, of the third part; (which ſaid *S.* the wife of the ſaid *G. W.* and *C. K.* are the only

daughters and coheirs of *C. M.* late of ——, afore- PURCHASES.
ſaid, gent. deceaſed, who was one of the heirs at law of ſir *R. B.* late of ——, in the county of ——, knight, deceaſed, and as ſuch entitled to one moiety or half part of the manors, meſſuages, cottages, farms, lands, tenements, rectories, tithes, and hereditaments, of which the ſaid ſir *R. B.* died ſeiſed,) *C. M.* of ——, aforeſaid, widow, and relict of the ſaid *C. M.* of the fourth part; *P. M. P.* of ——, in the ſaid county of ——, eſq. *T. R.* and *W. W.* both of ——, in the ſaid county of ——, gent. of the fifth part; *B. S.* of ——, in the city of ——, widow, *A. R.* of ——, in the ſaid city of ——, ſpinſter, *S. E.* of ——, widow, and relict of *S. I.* late of the ſame place, eſq. deceaſed, *W. R.* of ——, aforeſaid, eſq. and *A.* his wife, *M. P.* heretofore of the city of ——, and now of ——, aforeſaid, ——, and *S.* his wife, and the rev. *P. T.* of the ſaid city of ——, clerk, and *M.* his wife, (which ſaid *B. S. A. R. S. E A.* the wife of the ſaid *W. R. S.* the wife of the ſaid *D. M.* and *M.* the wife of the ſaid *P. I.* being the only children of *A. R.* deceaſed, who was one of the two daughters of *N. G.* formerly of ——, deceaſed, late the wife of *A. L.* heretofore of ——, aforeſaid, ——, deceaſed,) and neices and heirs at law of *N. H.* late of ——, aforeſaid, ſpinſter, alſo deceaſed, who was the other daughter of the ſaid *N. G.* were entitled to the other moiety or half part of the manors, meſſuages, cottages, farms, lands, tenements, rectories, tithes, and hereditaments, whereof the ſaid ſir *R. B.* died ſeiſed,) of the ſixth part; and *W. E.* of ——, in the ſaid county of

PURCHASES. —, aforeſaid, eſq. of the ſeventh part. WHEREAS by indentures of leaſe and releaſe, bearing date reſpectively the — and the — days of ——, in the year of our Lord ——, the releaſe being made, or expreſſed to be made, between the ſaid *G. W.* and *S.* his wife, of the firſt part; and the ſaid *C. I.* and *A. T.* of the ſecond part; *C. E. A.* of ——, in the pariſh of ——, ——, ſituate in the city of ——, ——, and *A. H.* of —, —, in the pariſh of ——, in the ſaid county of ——, ——, of the third part; and *S. W.* of ——, aforeſaid, ——, and *I. W.* of the pariſh of ——, in the ——, in the city of ——, ——, of the fourth part; and a fine acknowledged and levied in Trinity term, in in the ſaid year ——, before the juſtices of the Court of Common Pleas, *Weſtminſter*, between the ſaid *C. I.* and *A. T.* plaintiffs, and the ſaid *G. W.* and *S.* his wife, defendants, one fourth part or ſhare, the whole into four equal parts or ſhares, to be divided of and in all the manors, meſſuages, farms, lands, tenements, tithes, and hereditaments, then late of or belonging to the ſaid ſir *R. B.* in the counties of —— and —, with their appurtenances, were conveyed and aſſured to the ſaid *C. I.* and *A. T.* and their heirs, to the uſes, upon, and for the truſts, intents, and purpoſes, and under and ſubject to the powers, proviſos, limitations, declarations, and agreements, thereinafter limited, expreſſed, declared, and contained, of and concerning the ſame, in which ſaid indentures of releaſe is contained a proviſo, and it is thereby declared and agreed, that notwithſtanding any of the uſes, eſtates, limitations, and truſts, therein

Recital of indentures, &c. whereby, and by a fine levied, one-fourth part of premiſes were conveyed to truſtees upon truſts after mentioned.

limited, expreſſed, declared, and contained, it (*a*) ſhould be lawful for the ſaid *C. I.* and *A. T.* and the ſurvivor of them, and the heirs of ſuch ſurvivor, at any time or times thereafter, at the requeſt, and by and with the conſent and approbation of the ſaid *G. W.* and *S.* his wife, or the ſurvivor of them, teſtified by ſome writing or writings, under the hands and ſeals of them, or the ſurvivor of them, and to be atteſted by two or more credible witneſſes, to grant, bargain, ſell, diſpoſe of, and convey, all or any part or parts of the ſaid undivided fourth part of the ſaid hereditaments, and premiſes, and the fee ſimple and inheritance thereof, to any perſon or perſons, for ſuch price or prices, in money, as to them the ſaid *C. I.* and *A. T.* or the ſurvivor of them, or the heirs or aſſigns of ſuch ſurvivor, ſhould ſeem reaſonable; and that for the end or purpoſe of making any ſuch ſale or diſpoſition, it ſhould be lawful for the ſaid *C. I.* and *A. T.* and the ſurvivor of them, and the heirs of ſuch ſurvivor, if it ſhould be thought neceſſary or requiſite, by any deed or deeds, writing or writings, to be by them, or the ſurvivor of them, or the heirs of ſuch ſurvivor, ſealed and delivered in the preſence of, and atteſted by two or more credible witneſſes, with the

PURCHASES.

Decree that it ſhould be lawful for the ſaid truſtees to ſell the premiſes.

And for that purpoſe to revoke prior uſes.

(*a*) In reciting the deed by which the power of appointment is created, it is proper to inſert, *verbatim*, the particular power by which the intended appointment is made, that it may appear on the face of the inſtrument, that the forms preſcribed by the power have been purſued; a matter upon which, it has been before obſerved, the validity of the appointment materially depends. See ante, p. 7.

PURCHASES. conſent and approbation of the ſaid *G. W.* and *S.* his wife, or the ſurvivor of them, teſtified as aforeſaid, to revoke, determine, and make void, all and every of the uſes, eſtates, truſts, powers, proviſos, limitations, and agreements, hereinbefore limited, expreſſed, declared, and contained, of and concerning the ſaid hereditaments and premiſes, ſo to be ſold or diſpoſed of, and by the ſame or any other deed or deeds, writing or writings, to be ſo ſealed delivered, and atteſted, and with ſuch conſent and approbation, teſtified as aforeſaid, to limit and appoint the ſaid hereditaments and premiſes, whereof the uſes ſhould be ſo revoked, unto ſuch purchaſer or purchaſers (*a*), and his, her, or their, reſpective heirs and aſſigns. And that upon payment of the money ariſing by ſale of the ſaid hereditaments and premiſes thereby made ſaleable, or any part thereof, it ſhould be lawful for the ſaid *C. I.* and *A. T.* and the ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor, to give and ſign any receipt or receipts, for the money for which the ſaid hereditaments ſhould be ſo ſold, which receipt or receipts ſhould be a good and ſufficient diſcharge, or effectual diſcharges, to any purchaſer or purchaſers, and his, her, or their, reſpective heirs, executors, adminiſtrators, and aſſigns, for ſuch purchaſe money, or for ſo much thereof as in ſuch receipt or receipts ſhould be expreſſed or acknowledged to be received, and that ſuch purchaſer or purchaſers, his,

And by the ſame or other deeds, &c. to limit new uſes.

And upon payment of the purchaſe money to ſign receipts, which receipts to be a good diſcharge.

(*a*) See Mr, *Booth*'s opinion at the end of *Shep.* Touchſtone,

her, or their, reſpective heirs, executors, adminiſtrators, or aſſigns, ſhould not afterwards be obliged to ſee to the application of ſuch purchaſe-money, or be anſwerable or accountable for the loſs, miſ-application, or non-application thereof, or of any part thereof. And whereas by indenture of bargain and ſale, bearing date the — day of the ſaid month of ——, ——, inrolled in the Court of Common Pleas, at *Weſtminſter*, and made, or expreſſed to be made, between the ſaid *B. S. A. R. S. I.* and *E.* then his wife; *W. R.* and *A.* his wife; *P. M.* and *S.* his wife; *P. I.* and *M.* his wife, of the firſt part; the ſaid *D. M. T. D. R.* and *W. W.* of the ſecond part; and the ſaid *S. I.* and *W. R.* of the third part; and a fine acknowledged and levied in Trinity term, in the — year of his preſent majeſty's reign, in the ſaid Court of Common Pleas, at *Weſtminſter*, purſuant to a covenant in the ſame indenture for that purpoſe contained, between the ſaid *P. M. P. T. R.* and *W. W.* plaintiffs and the ſaid *R. S. B. S. A. I.* and *E.* his wife. *W. R.* and *A.* his wife, *P. M.* and *S.* his wife, *P. I.* and M. his wife, defendants, one moiety or half part, (the whole into two equal parts to be divided,) of all the manors, meſſuages, cottages, farms, lands, tenements, tithes, and hereditaments, whatſoever, then late of the ſaid ſir *R. B.* in the ſaid counties of ——, with their appurtenances, was conveyed and aſſured unto and to the uſe of the ſaid *P. M. P. T. R.* and *W. W.* and their heirs, upon and for the truſts, intents, and purpoſes, and with and ſubject to the powers, proviſos, declarations, and agreements, therein-

Purchaſers not to ſee to application of the money.

Recital of bargain and ſale enrolled.

and fine, &c. levied in purſuance of covenant in ſaid indenture.

Whereby one moiety of ſaid manors, &c. were conveyed upon truſt to ſell.

PURCHASES. after declared and expreſſed, and hereinafter in-part mentioned, of or concerning the ſame, (that is to ſay,) upon truſt, that they the ſaid *P. M. P. T. M.* and *W. W.* or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor, ſhould, as ſoon as conveniently might be, ſell and diſpoſe of the aforeſaid moiety of all the manors, meſſuages, cottages, farms, lands, tenements, rents, rectory, tithes, hereditaments, and premiſes, with the appurtenances in the ſaid counties of ——, and the inheritance thereof, in fee ſimple, either entirely and together, or in parcels, by public ſale or auction, or private contract, unto any perſon or perſons, who ſhould be willing to become and be the purchaſer or purchaſers of the ſaid moiety of the ſaid hereditaments and premiſes thereinbefore mentioned, or any of them, for the moſt money, and the beſt price or prices that could be reaſonably had or gotten for the ſame, and did and ſhould for that purpoſe make and execute all ſuch deeds, conveyances, and aſſurances, as they the ſaid *P. M. P. T. R.* and *W. W.* or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor, ſhould think fit, and pay, or cauſe to be paid, the money ariſing by ſuch ſale or ſales as aforeſaid, in the manner, and for the purpoſes therein mentioned. And it is thereby declared and agreed, by and between the ſaid parties thereto, and their true intent and meaning was, that all ſuch deeds, conveyances, and aſſurances, as ſhould be made and executed by the ſaid *P. M. P. T. R.* and *W. W.* or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor, to the purchaſer or

purchaſers of the ſaid moiety of the ſaid manors, meſſuages, cottages, farms, lands, tenements, rents, rectories, tithes, hereditaments, and premiſes, or any of them, or any part or parts thereof, ſhould, to all intents and purpoſes whatſoever, be as valid and effectual in the law to ſuch purchaſer or purchaſers reſpectively, and all and every perſon and perſons claiming by, from, through, or under him, them, or any of them, as ſuch deeds, conveyances, or aſſurances, would have been if the ſaid *B. S. A. R. S. I.* and *E.* his wife, *W. R.* and *A.* his wife, *D. M.* and *S.* his wife, and *P. I.* and *M.* his wife, had ſeverally joined therein, and duly executed the ſame, and that ſuch purchaſer and purchaſers, and all and every perſon or perſons claiming by, from, through, or under him, them, or any of them, ſhould be entitled to, and have, hold, and enjoy, the moiety of the ſaid manors, meſſuages, cottages, lands, tenements, rents, rectory, tithes, hereditaments, and premiſes, which ſhould be ſo ſold and conveyed, or aſſured, to ſuch purchaſer or purchaſers reſpectively, by the ſaid *P. M. P. T. R.* and *W. W.* or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor as aforeſaid, againſt the ſaid *B. S. A. R. S. T.* and *E* his wife, *W. R.* and *A.* his wife, *D. M.* and *S.* his wife, and *P. I.* and *M.* his wife, and each and every of them, and each and every of their heirs, and all and every perſon or perſons claiming by, from, through, under, or in truſt for them, or any of them, freed, acquitted, and for ever diſcharged of and from all right, title, intereſt, claim, and demand, whatſoever, of them the ſaid *B. S. A. R.* PURCHASES.

PURCHASES. *S. I.* and *E.* his wife, *W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, and each and every of them, and each and every of their heirs; and that the receipt or receipts of the ſaid *P. M. P. T. R.* and *W. W.* or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor, ſhould be a good and effectual diſcharge, and good and effectual diſcharges, to the purchaſer and purchaſers of the ſaid moiety of the ſaid manors, meſſuages, cottages, farms, lands, tenements, rectory, tithes, hereditaments, and premiſes, or any of them, for his, her, or their, purchaſe money, and that ſuch purchaſer or purchaſers paying the ſame to the ſaid *P. M. P. T. R.* and *W. W.* or the ſurvivors or ſurvivor of them, or the heirs of ſuch ſurvivor, and having ſuch receipt or receipts as aforeſaid, ſhould not be anſwerable for the loſs, miſ-application, or non-application, of the purchaſe money, which in and by ſuch receipt or receipts, ſhould be mentioned or expreſſed to be received. AND whereas the aforeſaid *S. I.* died ſome time ſince, and whereas the ſaid *C. I.* and *A. T.* have, at the requeſt, and with the conſent and approbation of the ſaid *G. W.* and his *S.* wife, teſtified in manner hereafter mentioned, contracted and agreed with the aforeſaid *W. E.* for the ſale of one fourth part or ſhare of the cloſes and pieces, or parcels of land, ſituate, lying, and being, in the pariſh of ——, in the ſaid county of ——, hereinafter particularly mentioned and deſcribed, and the tithes, of corn and grain yearly or otherwiſe coming, growing, and renewing, in, out of, or upon the ſaid cloſes and pieces or parcels of

Contract for ſale of one-fourth part of ſaid premiſes.

land, (which ſaid cloſes and pieces or parcels of land and tithes, are parts of the land and tithes of which the ſaid ſir *R. B.* died ſeiſed as aforeſaid,) to him, at or for the price or ſum of ——, and the aforeſaid *C. K.* hath alſo contracted and agreed with the ſaid *W. E.* for the ſale of her one-fourth part or ſhare of and in the ſaid cloſes, peices, or parcels of lands and tithes to him, at, or for the like price or ſum of —— and the ſaid *P. M. R. P. T. R.* and *W. W.* have with the conſent and approbation of the ſaid *B. S. A. R. S. E. W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, teſtified by their being parties to and ſealing and delivering theſe preſents, likewiſe contracted and agreed with the ſaid *W. E.* for the ſale to him of the moiety or half part of the ſame cloſes, pieces, or parcels of lands and tithes, which are part of the lands, tithes and hereditaments, whereof the moiety or half part was by the ſaid indenture of the —— day of ——, and the fine levied in purſuance thereof, ſo conveyed and aſſured unto, and to the uſe of them the ſaid *P. M. R. P. T.* and *W. W.* and their heirs as aforeſaid, at, or for the price or ſum of ——, being the beſt price that could be had or gotten for the ſame. Now this indenture witneſſeth, that for enabling the ſaid *C. I.* and *T. A.* to perform and carry into execution, the contract and agreement ſo entered into by them, with the ſaid *W. E.* as aforeſaid, they the ſaid *C. I.* and *T. A.* by virtue and in purſuance of the power or authority, in and by the ſaid indenture of the — day of —, for this purpoſe given to or veſted in them, or any

PURCHASES.

Now this indenture witneſſeth that to enable the ſaid, &c. to perform &c.

PURCHASES. ways enabling them hereunto, (*a*) and with the consent and approbation of the said *G. W.* and *S.* his wife, testified by their being parties to, and signing, sealing, and delivering these presents, in the presence of two credible persons, whose names are intended to be hereon written or indorsed, as witnesses attesting the same, (*b*) and have revoked, determined, and made void, and by this present deed in writing, sealed and delivered by them, the said *C. I.* and *A. T.* in the presence of the two credible witnesses whose names are intended to be hereon written or indorsed, as witnesses attesting the same, do with the consent and approbation of the said *G. W.* and *S.* his wife, testified in manner aforesaid, revoke, determine, and make void all and every the uses, estates, trusts, powers, provisos, limitations, and agreements, in and by the said indenture of the — day of ——, limited, cre-

They the said do revoke said uses.

(*a*) In deeds of appointment it is usual to make the appointor not only declare, that he acts in pursuance of the particular authority which he professes to be then exercising, but "of every other power, enabling him in that behalf." This, however, appears to be wholly unnecessary and useless.

(*b*) As it is essential that all incidental circumstances required to be observed in the execution of powers of appointment, should be *strictly* attended to. See ante, p. 7, it is usual in order as well to direct the parties, with respect to the form of execution necessary to be observed, as to show, that whatever omissions may have inadvertently happened, it was the *intention* of the appointor, duly to execute his authority,) particularly to notice in the deed of appointment, the formularies required by the power to be attended to in its execution. It is however rather a matter of feazability than of real use.

ated, declared, expreſſed and contained, other than and except the powers therein and thereinbefore particularly mentioned or recited, of, or concerning the fourth part or ſhare thereby granted, and releaſed or mentioned, or intended to be granted and releaſed unto them the ſaid *C. I.* and *A. T.* and their heirs of and in the cloſes and pieces, or parcels of arable land, ſituate lying and being in the pariſh of — aforeſaid, in the ſaid county of —, hereinafter particularly mentioned and deſcribed, (that is to ſay) all that &c. &c. and of or concerning all hedges, ditches, trees, mounds, banks, balks, houſes, commons, common of paſture, ways, waters, water-courſes, rights, liberties, profits, commodities and appurtenances whatſoever, to the ſaid cloſes and pieces, or parcels of land, or any of them, belonging or appertaining, (all which ſaid cloſe and pieces or parcels of land, with the appurtenances, late were in the ſeveral occupations of the ſaid Sir *R. B. F. I.* and *D. I.* and are all now in the tenure or occupation of the ſaid *D. I.* or his undertenant or undertenants,) and of or concerning one-fourth part or ſhare of all the tithes of corn and grain, yearly or otherwiſe, coming, growing and renewing, in, out, of, or upon the ſaid cloſes and pieces, or parcels of land, or any of them. AND this indenture alſo witneſſeth, that in purſuance and performance of the ſaid contract and agreement ſo entered into by the ſaid *C. I.* and *A. T.* with the ſaid *W. E.* as aforeſaid, and for and in conſideration of the ſum of ——, of lawful money of Great Britain, to the ſaid *C. I.* and *A. T.* at or immediately before the ſealing and deliver- PURCHASES.

And this indenture further witneſſeth, that, &c.

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ing theſe preſents, well and truly paid by the ſaid *W. E.* at the requeſt and by the direction of the ſaid *G. W.* and *S.* his wife, teſtified in manner aforeſaid, the receipts (*a*) of which ſaid ſum of —, the ſaid *C. I.* and *A. T.* do hereby acknowledge, and thereof, and of and from the ſame, and every part thereof, do acquit, releaſe, and diſcharge the ſaid *W. E.* his heirs, executors, adminiſtrators and aſſigns, for ever by theſe preſents, they the ſaid *C. I.* and *A. T.* by virtue and in purſuance of the power or authorities in and by the ſaid indenture of the — day of —, for this purpoſe given to, or veſted in them, or in any wiſe enabling them hereunto, and at the requeſt, and with the conſent and approbation of the ſaid *G. W.* and *S.* his wife, teſtified in manner aforeſaid, have granted, bargained, ſold, diſpoſed of, conveyed, limited, and appointed, and by this preſent deed in writing, ſo ſealed and delivered by them the ſaid *C. I.* and *A. T.* and intended to be atteſted as aforeſaid, do at the requeſt, and with the conſent and approbation of the ſaid *G. W.* and *S.* his wife, teſtified in manner hereinbefore mentioned, grant, bargain, ſell, diſpoſe of, convey, limit and appoint unto the ſaid *W. E.* his heirs and aſſigns, all the ſaid laſt mentioned fourth-part or ſhare of and in all and every the cloſes and pieces, or parcels of land, ſituate lying and being, in the ſaid pariſh of —, which are hereinbefore particularly mentioned, and deſcribed, with their appurtenances, and of

Do grant, bargain, ſell, &c.

Parcels to hold unto, &c. to the uſe, &c.

(*a*) See ante, vol. 1. p. 60, alſo 1 *Atk.* 573. 2 *Ib.* 478. 3 *Ib.* 112, 273, *n.* (2).

and in all the tithes of corn and grain yearly or otherwiſe, coming, growing, or ariſing, in, out of, or upon the ſaid cloſes and pieces, or parcels of land, or any of them. To have and to hold all the ſaid fourth part or ſhare hereinbefore granted, bargained, ſold, diſpoſed of, conveyed, limited, and appointed, or mentioned, or intended ſo to be, of, and in all the ſaid cloſes, pieces, or parcels of land, and tithes hereinbefore particularly mentioned and deſcribed, with their appurtenances unto the ſaid *W. E.* his heirs and aſſigns, to the uſe of him the ſaid *W. E.* his heirs and aſſigns for ever. And the ſaid *C. I.* for himſelf, his heirs, executors, and adminiſtrators, and the ſaid *A. I.* for himſelf, his heirs, executors, and adminiſtrators, do, and each of them doth ſeverally and reſpectively, and not jointly, or the one for the other of them, or for the acts, deeds, heirs, executors, or adminiſtrators of the other of them, but each of them, for himſelf and his own acts, deeds, heirs, executors, and adminiſtrators, only covenant, promiſe and agree to and with the ſaid *W. E.* his heirs and aſſigns, by theſe preſents, that they the ſaid *C. I.* and *A. T.* or either of them, have not, and hath not at any time heretofore, executed the aforeſaid powers or authorities, or any of them, or made, done, committed, or executed, or wittingly, or willingly, permitted or ſuffered any act, deed, matter, or thing whatſoever, whereby or wherewith, or by reaſon or means, whereof the ſaid fourth part or ſhare, hereinbefore by them the ſaid *C. I.* and *A. T.* granted, bargained, ſold, diſpoſed of, conveyed, limited and appointed, or

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To hold to the purchaſer and his heirs.

Several covenant that the truſtees have not executed the power,

or done any act to incumber.

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mentioned, or intended ſo to be, of and in the ſaid cloſes, pieces, or parcels of lands and tithes hereinbefore particularly mentioned and deſcribed, or any of them, or any part thereof, is, or may, can, or ſhall be any way impeached, charged, affected, or incumbered in title, eſtate, or otherwiſe howſoever.

And this indenture further witneſſeth that in purſuance of ſaid agreement, and inconſideration, &c.

AND this indenture further witneſſeth, that in purſuance and performance of the contract and agreement ſo entered into by the ſaid *C. K.* with the ſaid *W. E.* as aforeſaid, and for and in conſideration of the ſum of —— of lawful money of Great Britain, to the ſaid *C. K.* well and truly paid by the ſaid *W. E.* at or immediately before the ſealing and delivering theſe preſents, the receipt of which ſaid ſum of —— the ſaid *C. K.* doth hereby acknowledge, and thereof, and of and from the ſame and every part thereof, doth acquit, releaſe, and diſcharge, the ſaid *W. E.* his heirs, executors, adminiſtrators and aſſigns, for ever by theſe preſents, ſhe the ſaid *C. K.* hath, granted, (*a*) bar-

The vendor grants and releaſes one other *fourth* part.

(*a*) A conveyance of the fee by *leaſe and releaſe*, notwithſtanding the previous *appointment*, ariſes in general rather from a ſuperabundance of caution, than from any real neceſſity; the reaſon uſually given for it is, that the fee may paſs, ſhould the power to appoint perchance be inefficacious, either from a defect in its creation, or by ſubſequent ſuſpenſion or extinguiſhment. But the ſame reaſoning would perhaps juſtify the introduction of every *other* ſpecies of common aſſurance, as well as that by leaſe and releaſe; for though the grantor *appear* to have the fee, he may *poſſibly* be only a *termor*, &c. and it ſeems, generally ſpeaking, not only *unſcientifical* to guard againſt poſſible defects, which, did they really exiſt, ought to be apparent to a profeſſed conveyancer; but often improper, on account of its occaſioning to the parties an increaſe of expence, without

gained, ſold, aliened, releaſed, and confirmed, and by theſe preſents doth grant, bargain, ſell, alien, releaſe, and confirm unto the ſaid *W. E.* in his actual poſſeſſion, now being by virtue &c. and his heirs, all that fourth part or ſhare of her the ſaid *C. K.* of and in the ſaid cloſes and pieces or parcels of arable land, ſituate lying and being in the pariſh of —— aforeſaid, in the ſaid county of —— hereinbefore and hereinafter particularly mentioned and deſcribed, (that is to ſay) all that &c. &c. and of and in all hedges, ditches, trees, mounds, banks, balks, fences, commons, common of paſture, ways, waters, watercourſes, rights, liberties, profits, commodities, and appurtenances whatſoever, to the ſaid cloſes and peices, or parcels of land, or any of them, belonging or appertaining, and of and in all the tithes of corn and grain, yearly, or otherwiſe coming or growing and renewing, in, out, of, or upon the ſaid cloſes, and pieces, or parcels of land, or any of them, and the reverſion and reverſions, remainder and re-

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The parcels.

General words.

without any apparent occaſion beyond what the uſual covenants for the title would be ſufficient to provide for. In particular caſes, however, as where the appointor has an *eſtate* as well as a *power*, it is abſolutely neceſſary, and wherever it is ſo, it ſhould be by a diſtinct witneſſing part, as in the above precedent, and not as is ſometimes done by blending the releaſe and appointment together, but ſee alſo ante, p. 7.

It is uſual in practice, where the power of appointment is completely executed, or where it is not the intention of the party to exerciſe it further, to releaſe the power itſelf and all further claim to the exerciſe of it; this is however by no means *neceſſary*, and it appears therefore to have been here omitted. See 1 *Atk.* 567.

PURCHASES. mainders, rents and profits of the ſaid fourth part or ſhare of and in the ſaid cloſes, pieces, or parcels of land and tithes, and every of them, and all the eſtate, right, title, intereſt, property, claim, and demand whatſoever, of her the ſaid *C. K.* of, in, and to the ſame fourth part or ſhare, of and in the ſaid cloſes, pieces, or parcels of land and tithes, and every or any of them. To have and to hold all the ſaid fourth part or ſhare, hereinbefore by the ſaid *C. K.* granted and releaſed, or mentioned or intended ſo to be, of and in all the ſaid cloſes, pieces, or parcels of land and tithes hereinbefore particularly mentioned and deſcribed, with their appurtenances unto the ſaid *W. E.* his heirs and aſſigns, to the uſe of him the ſaid *W. E.* his heirs and aſſigns for ever. AND this indenture alſo further witneſſeth, that for and in conſideration of the ſum of 10s. of lawful money of Great Britain to the aforeſaid *C. M.* well and truly paid by the ſaid *W. E.* at or immediately before the ſealing and delivering theſe preſents, the receipt of which ſaid ſum of 10s. ſhe doth hereby acknowledge, and for other good cauſes and conſiderations, the ſaid *C. M.* hereunto moving, ſhe the ſaid *C. M.* at the requeſt and deſire of the ſaid *S. G.* and *W.* his wife, and *C. K.* teſtified in manner aforeſaid, hath bargained, ſold, aſſigned, releaſed, quitted claim, and given up, and by theſe preſents, doth bargain, ſell, aſſign, releaſe, quit claim, and give up unto the ſaid *W. E.* and his heirs, all dower, and right, and title, of, or to dower, which ſhe the ſaid *G. M.* hath, or is entitled to, of, in, or out of the ſaid cloſes, pieces, or parcels of land and tithes hereinbefore particularly mentioned and deſcribed, or

To hold to the purchaſer in fee.

And this indenture further witneſſeth that the vendor releaſes her dower to the end that the ſame may be extinguiſhed.

any of them, or any part or parts thereof, to the end and intent, that ſuch her dower, right, and title of dower, may become and be extinguiſhed, and the ſaid cloſes, pieces, or parcels of land and tithes, and every part or parts thereof, with the appurtenances, be held and enjoyed by the ſaid *W. E.* his heirs and aſſigns, freed, acquitted, exonerated, and for ever diſcharged, of, and from all dower and right, and title of dower, of her the ſaid *C. M.* of, in, or out of the ſame or any part or parts thereof. And the ſaid *C. M.* doth hereby for herſelf, her heirs, executors, and adminiſtrators, covenant promiſe and agree to and with the ſaid *W. E.* his heirs and aſſigns, that ſhe the ſaid *C. M.* her executors, and adminiſtrators, ſhall and will at any time or times hereafter, upon the requeſt, and at the coſts and charges of the ſaid *W. E.* his heirs and aſſigns, make, do, and execute all ſuch acts, deeds, matters, and things, for the more effectually extinguiſhing ſuch her dower and right, and title of dower as aforeſaid, and freeing, exonerating, and diſcharging the ſaid cloſes, pieces or parcels of land and tithes, and every of them, and every part thereof, of and from the ſame, and all claims and demands, for, or in reſpect thereof, as by the ſaid *W. E.* his heirs and aſſigns, or his or their counſel learned in the law, ſhall be reaſonably deviſed, or adviſed, and required, ſo as for the doing thereof, ſhe, they, or any of them, be not compelled or compellable to go or travel from the place or places of her, their, or any of their uſual abode or dwelling. And this indenture likewiſe further witneſſeth, that in purſuance and performance of the contract and agreement ſo entered into

And the premiſes held diſcharged therefrom.

Covenant to do acts for extinguiſhing the ſame.

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And this indenture further witneſſeth.

by the aforeſaid *P. M. R. P. T.* and *W. W.* with the ſaid *W. E.* as hereinbefore is mentioned, and for and in conſideration of the ſum of —— of lawful money of Great Britain to the ſaid *P. M. R. P. T.* and *W. W.* at or immediately before the ſealing and delivering of theſe preſents, well and truly paid by the ſaid *W. E.* at the requeſt, and by the direction of the ſaid *B. S. A. R. S. E. W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, teſtified in manner aforeſaid, the receipt of which ſaid ſum of —— the ſaid *P. M. R. P. T.* and *W. W.* do hereby acknowledge, and thereof, and of and from the ſame, and every part thereof, do acquit, releaſe, and diſcharge, the ſaid *W. E.* his heirs, executors, adminiſtrators, and aſſigns, for ever by theſe preſents, they the ſaid *P. M. R. P. T.* and *W. W.* at the requeſt, and by the direction of the ſaid *B. S. A. R. S. E. W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, ſo teſtified as aforeſaid, have granted, bargained, ſold, aliened, releaſed, and by theſe preſents, do grant, bargain, ſell, alien, releaſe and confirm, unto the ſaid *W. E.* and his heirs, all that moiety or half part, in and by the aforeſaid indenture of the —— day of ——, and the fine levied in purſuance thereof, conveyed unto them the ſaid *P. M. R. P. T.* and *W. W.* and their heirs, of and in the cloſes and pieces, or parcels of arable land, ſituate lying, and being in the pariſh of —— aforeſaid, in the ſaid county of ——, hereinbefore and hereafter particularly mentioned and deſcribed, (that is to ſay) all that &c. AND of and in all hedges, ditches, trees, mounds, banks, balks, fences, commons, common of paſture, ways, wa-

Grant and releaſe of the remaining *moiety* by truſtees, by the direction of *ceſtui que* truſts.

ters, water courſes, rights, liberties, profits, commodities, and appurtenances whatſoever, to the ſaid cloſes, and pieces, or parcels of land, at any of them belonging, or appertaining, and of and in all the tithes of corn and grain, yearly or otherwiſe, coming, growing, and renewing in, out of, or upon the ſaid cloſes, and premiſes, or parcels of land, or any of them, and the reverſion and reverſions, remainder and remainders, rents and profits of the ſaid moiety or half part, of and in the ſaid cloſes, pieces, or parcels of land and tithes, and every of them, and all the eſtate, right, title, intereſt, property, claim, and demand whatſoever, of them the ſaid *P. M. R. P. T.* and *W. W.* and each and every of them, of, in, or to the ſame moiety, or half part, of and in the ſaid cloſes, pieces, or parcels of land and tithes, and every or any of them, To have and to hold all the ſaid moiety or half part hereinbefore by the ſaid *P. M. R. P. T.* and *W. W.* granted, and releaſed, or mentioned, or intended ſo to be, of, and in all the ſaid cloſes, pieces, or parcels of land and tithes, hereinbefore particularly mentioned, and deſcribed, with their appurtenances unto the ſaid *W. E.* his heirs and aſſigns, to the uſe of him the ſaid *W. E.* his heirs and aſſigns for ever. And the ſaid *P. M.* for himſelf, his heirs, executors, and adminiſtrators, and the ſaid *T. R.* for himſelf, his heirs, executors and adminiſtrators, and the ſaid *W. W.* for himſelf, his heirs, executors and adminiſtrators, do, and each and every of them, doth ſeverally and reſpectively, and not jointly, (*a*) or the one for the

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Parcels.

To hold to the purchaſer in fee.

Several covenants from truſtees that they have not encumbered.

(*a*) Some obſervations on the covenants for the title uſually

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other or others of them, or for the acts, deeds, heirs, executors, or administrators, of the other or others of them, but each of them, for himself, and his own acts, deeds, heirs, executors, and administrators, only, covenant, promise, and agree, to and with the said *W. E.* his heirs and assigns, by these presents, that they the said *P. M. T. R.* and *W. W.* or any of them, have not, and hath not at any time heretofore, made, done, committed or executed, or wittingly or willingly permitted, or suffered, any act, deed, matter, or thing, whatsoever, whereby or wherewith, or by reason or means whereof the said undivided moiety, or half part hereinbefore by them the said *P. M. T. R.* and *W. W.* granted and released, or mentioned, or intended so to be, of, and in the said closes, pieces, or parcels of land and tithes, hereinbefore particularly mentioned and described, or any of them, or any part thereof, is, or may, can, or shall be any ways impeached, charged, affected, or incumbered, in title, estate, or otherwise howsoever.

Several covenants by *cestui que* trusts and their wives for the title, (*a*) to their respective parts of the premises.

And the said *G. W.* for himself, his heirs, executors, and administrators, and for the said *S.* his wife, and her heirs in respect of, and so far as relates to, or concerns the fourth part or share hereinbefore by the said *C. I.* and *A. T.* granted, bargained, sold, disposed of, conveyed, limited, and appointed, or mentioned, or intended so to be, And the said *C. K.* for herself, her heirs, executors,

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inserted in conveyances, will be made under the title *Covenants*, and also in the notes to the first precedent, under the title *Release*.

(*b*) See as to the construction of joint and several covenants. *Moor*, 849. 1 *Saund.* 155. *Raym.* 459, and *Elem. Conv.* b. iv. par. i. s. vi.

and adminiſtrators, in reſpect, and ſo far as relates to, or concerning the fourth part or ſhare hereinbefore by her granted and releaſed, or mentioned, or intended ſo to be, and the ſaid *B. S.* for herſelf, her heirs, executors, and adminiſtrators, and the ſaid *A. R.* for herſelf, her heirs, executors and adminiſtrators, and the ſaid *W. R.* for himſelf, his heirs, executors, and adminiſtrators, and for the ſaid *A.* his wife, and her heirs, and the ſaid *P. M.* for himſelf, his heirs, executors, and adminiſtrators, and for the ſaid *S.* his wife, and her heirs, and the ſaid *P. I.* for himſelf, his heirs, executors, and adminiſtrators, and for the ſaid *M.* his wife, and her heirs; in reſpect of, and ſo far as relates to, or concerns the fourth moiety or half part or ſhare hereinbefore by the ſaid *P. M. T. R.* and *W. W.* granted, and releaſed, or mentioned, or intended ſo to be, of and in the ſaid cloſes, pieces, or parcels of lands and tithes hereinbefore particularly mentioned, and deſcribed, do, and each and every of them, doth ſeverally and reſpectively, and not jointly, or the one for the other or others of them, or for the acts, deeds, heirs, executors, or adminiſtrators of the other or others of them, covenant, promiſe and agree, to and with the ſaid *W. E.* his heirs and aſſigns, by theſe preſents in manner following, (that is to ſay,) that for and notwithſtanding any act, deed, matter, or thing, whatſoever by them the ſaid *G. W.* and *S.* his wife, *C. K. B. S. A. R. W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, or any of them, or by the ſaid *N. H.* or the ſaid ſir *R. B.* or any of his anceſtors, made, done, committed, or executed, or wittingly or willingly permitted or ſuffer-

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Good right to convey

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ed to the contrary, the ſaid *C. I.* and *A. T. C. K. P. M. T. R.* and *W. W.* now ſeverally have in themſelves good right, full power, and lawful and abſolute authority to grant, bargain, ſell, appoint, releaſe, and convey all the aforeſaid parts or ſhares, of and in all cloſes, pieces or parcels of land, and tithes hereinbefore particularly mentioned and deſcribed, with their appurtenances, unto and to the uſe of the ſaid *W. E.* his heirs and aſſigns, in manner aforeſaid, and according to the true intent and meaning of theſe preſents. And alſo that it ſhall or may be lawful, to and for the ſaid *W. E.* his heirs and aſſigns, from time to time, and at all times, forever hereafter, peaceably and quietly to enter upon, and have, hold, and enjoy, all the ſaid cloſes, pieces or parcels of land, and tithes hereinbefore particularly mentioned and deſcribed, with their appurtenances, and receive and take the rents and profits thereof, to and for his and their own uſe, without any let, ſuit, trouble, interruption, or diſturbance, (*a*) whatſoever, of, from, or by the ſaid *B. S. A. R. W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, or any of them, or any of their heirs, or any other perſon or perſons whomſoever, lawfully claiming, or to claim by, from, through, or under them, or any of them, or by, from, through, or under the ſaid *N. H.* or the ſaid *R. B.* or any of his anceſtors, and that free and clear, and freely, clearly, and abſolutely acquitted, exonerated, and diſcharged, or otherwiſe

quiet enjoyment.

(*a*) See the conſtruction of theſe words, *poſt.* title COVENANT, and *Cro. Eliz.* 212, 421. *Pl.* 16. 3 *Lev.* 305. *Cro. Jac.* 425.

by the ſaid *G. W. S.* his wife, *C. K. B. S. A. R. W. R. A.* his wife, *P. M. S.* his wife, *P. I.* and *M.* his wife, or their reſpective heirs, executors, and adminiſtrators, ſaved, defended, kept harmleſs and indemnified, of, from, and againſt all, and all manner of former and other gifts, grants, bargains, ſales, mortgages jointures, dowers, rights and titles of dowers, uſes, wills, entails, ſtatutes, recognizances, judgments, extents, executions, rights, titles, charges, and incumbrances, whatſoever, made, done, committed, or executed, or wittingly or willingly permitted or ſuffered, by the ſaid *G. W. S.* his wife, *C. K. B. S. A. R W. R. A.* his wife, *P. M. S.* his wife, *P. I.* and *M.* his wife, or any of them, or by the ſaid *N. H.* or the ſaid ſir *R. B.* or any of his anceſtors, or by, through, or with their or any of their acts, deeds, means, conſent, privity, or procurement; and moreover, that they the ſaid *G. W.* and *S.* his wife, *C. K. B. S. A. R. W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, and their reſpective heirs, and all and every other perſon and perſons whomſoever, having or lawfully claiming, or to claim any eſtate, right, title, or intereſt, of, in, to, or out of the cloſes, pieces, or parcels of land and tithes hereinbefore particularly mentioned and deſcribed, or any of them, or any part or parts thereof, by, from, through, or under the ſaid *G. W. S.* his wife, *C. K. B. S. A. R. W. R. A.* his wife, *P. M.* and *S.* his wife, *P. I.* and *M.* his wife, or any of them, or by, from, through, or under the ſaid *N. H.* or the ſaid ſir *R. B.* or any of his anceſtors, ſhall and will, at any time or times hereafter, upon

And free from incumbrances.

Further aſſurance.

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ed to the contrary, the ſaid *C. I.* and *A. T. C. K. P. M. T. R.* and *W. W.* now ſeverally have in themſelves good right, full power, and lawful and abſolute authority to grant, bargain, ſell, appoint, releaſe, and convey all the aforeſaid parts or ſhares, of and in all cloſes, pieces or parcels of land, and tithes hereinbefore particularly mentioned and deſcribed, with their appurtenances, unto and to the uſe of the ſaid *W. E.* his heirs and aſſigns, in manner aforeſaid, and according to the true intent and meaning of theſe preſents. And alſo that it ſhall or may be lawful, to and for the ſaid *W. E.* his heirs and aſſigns, from time to time, and at all times, forever hereafter, peaceably and quietly to enter upon, and have, hold, and enjoy, all the ſaid cloſes, pieces or parcels of land, and tithes hereinbefore particularly mentioned and deſcribed, with their appurtenances, and receive and take the rents and profits thereof, to and for his and their own uſe, without any let, ſuit, trouble, interruption, or diſturbance, (*a*) whatſoever, of, from, or by the ſaid *B. S. A. R. W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, or any of them, or any of their heirs, or any other perſon or perſons whomſoever, lawfully claiming, or to claim by, from, through, or under them, or any of them, or by, from, through, or under the ſaid *N. H.* or the ſaid *R. B.* or any of his anceſtors, and that free and clear, and freely, clearly, and abſolutely acquitted, exonerated, and diſcharged, or otherwiſe

quiet enjoyment.

(*a*) See the conſtruction of theſe words, *poſt.* title COVENANT, and *Cro. Eliz.* 212, 421. *Pl.* 16. 3 *Lev.* 305. *Cro. Jac.* 425.

by the ſaid *G. W. S.* his wife, *C. K. B. S. A. R. W. R. A.* his wife, *P. M. S.* his wife, *P. I.* and *M.* his wife, or their reſpective heirs, executors, and adminiſtrators, ſaved, defended, kept harmleſs and indemnified, of, from, and againſt all, and all manner of former and other gifts, grants, bargains, ſales, mortgages jointures, dowers, rights and titles of dowers, uſes, wills, entails, ſtatutes, recognizances, judgments, extents, executions, rights, titles, charges, and incumbrances, whatſoever, made, done, committed, or executed, or wittingly or willingly permitted or ſuffered, by the ſaid *G. W. S.* his wife, *C. K. B. S. A. R W. R. A.* his wife, *P. M. S.* his wife, *P. I.* and *M.* his wife, or any of them, or by the ſaid *N. H.* or the ſaid ſir *R. B.* or any of his anceſtors, or by, through, or with their or any of their acts, deeds, means, conſent, privity, or procurement; and moreover, that they the ſaid *G. W.* and *S.* his wife, *C. K. B. S. A. R. W. R.* and *A.* his wife, *P. M.* and *S.* his wife, and *P. I.* and *M.* his wife, and their reſpective heirs, and all and every other perſon and perſons whomſoever, having or lawfully claiming, or to claim any eſtate, right, title, or intereſt, of, in, to, or out of the cloſes, pieces, or parcels of land and tithes hereinbefore particularly mentioned and deſcribed, or any of them, or any part or parts thereof, by, from, through, or under the ſaid *G. W. S.* his wife, *C. K. B. S. A. R. W. R. A.* his wife, *P. M.* and *S.* his wife, *P. I.* and *M.* his wife, or any of them, or by, from, through, or under the ſaid *N. H.* or the ſaid ſir *R. B.* or any of his anceſtors, ſhall and will, at any time or times hereafter, upon

And free from incumbrances.

Further aſſurance.

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Declaration that all outſtanding terms ſhall be in truſt for the purchaſer, and to attend the inheritance.

(*a*) See *Moor* 457, 753, 5 *Co.* 21, *Pop.* 109, *Cro. Eliz.* 450, 479.

(*b*) See 1 *Buls.* 90, 2 *Mod.* 75.

(*c*) See of *reaſonable* aſſurance, 1 *Mod.* 67, *Hob.* 275, *Lil. Conv.* 74, 75. As to counſel's advice, ſee 5 *Co.* 19 *b.* 3 *Buls.* 160, *Moor* 595, *Cro. Eliz.* 297.

perſons in whom the ſaid cloſes, pieces, or parcels of land, and tithes, hereinbefore particularly mentioned and deſcribed, or any of them, or any part or parts thereof, are, or is, or ſhall be or become veſted for any term or terms of years, created previous to the execution of theſe preſents, if any ſuch then be, ſhall from henceforth ſtand and be poſſeſſed of all the ſaid cloſes, pieces, or parcels of land and tithes, or ſuch of them, or ſuch part or parts thereof as are in ſuch term or terms of years reſpectively compriſed, for and during all the reſidues and remainders of the ſaid term or terms of years, in truſt for the ſaid *W. E.* his heirs and aſſigns, to the end and intent that the reſidue and remainder of the ſaid term or terms of years may, as to the ſaid cloſes, pieces, or parcels of land and tithes, wait upon, attend, and go along with the freehold and inheritance thereof, in order to protect and defend the ſame from and againſt all meſne or intervening charges and incumbrances, if any ſuch there be. And for the conſiderations aforeſaid, the ſaid *G. W.* for himſelf, his heirs, executors, and adminiſtrators, and for the ſaid *S.* his wife, and her heirs, and the ſaid *C. K.* for herſelf, her heirs, executors, and adminiſtrators, and the ſaid *B. S.* for herſelf, her heirs, executors, and adminiſtrators, and the ſaid *A. R.* for himſelf, his heirs, executors, and adminiſtrators, and the ſaid *W. R.* for himſelf, his heirs, executors, and adminiſtrators, and for the ſaid *A.* his wife, and her heirs, and the ſaid *P. M.* for himſelf, his heirs, executors, and adminiſtrators, and aſſigns, and for the ſaid *S.* his wife, her heirs, and the ſaid *P. I.* for himſelf, his heirs, executors,

Several covenants from the *ceſtui que truſt* for the production of title deeds.

PURCHASES. and adminiſtrators, and for the ſaid *M.* his wife, and her heirs, do ſeverally further covenant, promiſe, and agree, to and with the ſaid *W. E.* his heirs and aſſigns, by theſe preſents, that they the ſaid *G. W. S.* his wife, *C. K. B. S. A. R. W. R. A.* his wife, *P. M.* and *S.* his wife, *P. I.* and *M.* his wife, or ſome or one of them, their, or ſome or one of their heirs, executors, or adminiſtrators, ſhall and will, at any time or times hereafter, upon the requeſt, and at the coſts and charges of the ſaid *W. E.* his heirs and aſſigns, produce, or ſhow forth, or cauſe, and cauſe or procure to be produced and ſhown forth to the ſaid *W. E.* his heirs or aſſigns, or to his or their counſel, agent, or attorney, or upon the execution of any commiſſion or at any trial or hearing in any court of law or equity, or other judicial court, or elſewhere, as occaſion ſhall be or require, all or any of the indentures of leaſe and releaſe, bearing date reſpectively the — day of ——, in the year of our Lord ——, and alſo the hereinbefore in part recited indentures of the — and — days of ——, and the — day of ——, and likewiſe an indenture bearing date the — day of the ſame month of ——, made between the ſaid *L. R.* of the one part, and *B. H.* of ——, of the other part, for the defence, manifeſtation, and ſupport, of the eſtate, right, title, and poſſeſſion, of the ſaid *W. E.* his heirs and aſſigns, of and in the ſaid cloſe, piece or parcels of land and tithes, hereinbefore particularly mentioned and deſcribed, unleſs they the ſaid *G. W. S.* his wife, *C. K. B. S. A. R. W. R. A.* his wife, *D. M. S.* his wife, and *P. I.* and *M.* his wife, reſpectively, and their reſpective heirs, executors,

or adminiſtrators, ſhall be prevented or hindered from ſo doing, by force or accident. In witneſs, &c.

☞ If the deed of appointment be of lands ſituated in a *regiſter county*, it muſt be regiſtered like other conveyances. All doubts upon this ſubject were removed by the caſe of Scrafton *v.* Quinſey, 2 *Vez.* 413.

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† *Deed of Appointment by a Feme Covert of a Moiety of her Reverſionary Eſtate in ſettled Premiſes, to a Purchaſer, (after the deceaſe of Huſband and Wife, and failure of Iſſue,) in purſuance of a Power, with Limitation of the other Moiety as an Indemnity to the Purchaſer againſt a Power to Charge, &c.*

THIS INDENTURE of four parts, made, &c. between *B. M.* wife of the rev. *B. E.* late of —— in the county of ——, &c. and now of the city of —— in —— or of ſome other part beyond the ſeas, of the 1ſt. part, *A. B.* of &c. of the 2d. part, *M. E.* ſpinſter, and *A. T.* gentleman, of the 3d, 3d, part, and *F. G.* and *T. W.* of the 4th part. WHEREAS by indenture of leaſe and releaſe, bearing date reſpectively, the — and — days of ——, which was in the year of our Lord —, the releaſe being quinquepartite, and made, and expreſſed to be made between the ſaid *B. E.* of the 1ſt. part, the ſaid *B. M.* by her then name, and deſcription, of—————— of the ſecond part, *F. J.* gentleman, of the third part, *W. J.* and *A. N.* of the fourth part, and *D. H.* and lieutenant colonel *P. W.* of

Recital of marriage ſettlement under which the power of appointment is reſerved.

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thereof, then to the uſe and behoof of the ſaid *J.* *W.* and *N. A.* their executors, adminiſtrators and aſſigns, for and during, and unto the full end and term of 99 years, from thence next enſuing, without impeachment of waſte, and from and after the expiration or other ſooner determination of the ſaid term of 99 years, and in the mean time ſubject thereto, and to the truſts thereof, to the uſe of the ſaid *B. E.* and *B. M.* and of the ſurvivor of them, for and during the term of their natural lives, and the life of the longeſt liver of them, without impeachment of, or for any manner of waſte, and from and after the determination of thoſe eſtates by forfeiture or otherwiſe, to the uſe and behoof of the ſaid *F. J.* and his heirs, during the natural lives of the ſaid *B. E.* and *B. M.* and the life of the longer liver of them, upon truſt to preſerve the contingent uſes, and remainders thereinafter limited, from being defeated or deſtroyed, but to permit the ſaid *B. E.* and his aſſigns, during his life, and after his deceaſe, the ſaid *B. M.* and her aſſigns, during her life, to have, receive, and take the rents, iſſues and profits of the ſaid premiſes, to his, her, and their own proper uſes reſpectively, and from and immediately after the ſeveral deceaſes of the ſaid *B. E.* and *B. M.* then as to, for, and concerning the ſaid capital meſſuages, &c. to the uſe of the ſaid *D. H.* and *P. W.* their executors, adminiſtrators and aſſigns, for and during, and unto the full end and term of 1000 years, from thence next enſuing, and fully to be compleat and ended, without impeachment of waſte, upon the truſts and for the purpoſes therein- PURCHASES.

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after limited, declared or expreſſed, concerning the ſame, and as to, for, and concerning the ſaid laſt mentioned premiſes, from and immediately after the expiration or other ſooner determination of the ſaid term of 1000 years, and in the mean time ſubject thereto, and to the truſts thereto, to the uſe and behoof of the firſt ſon of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and to the heirs male of the body of ſuch firſt ſon, lawfully iſſuing; and for default of ſuch iſſue, to the uſe and behoof of the 2d, 3d, 4th, 5th, 6th, 7th, and all and every other the ſon and ſons of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, ſeverally, ſucceſſively, and in remainder, one after another, as they and every of them ſhould be in priority of birth, and ſeniority of age, and the ſeveral and reſpective heirs male, of the body and bodies of all and every ſuch ſon and ſons lawfully iſſuing, ſo as that the elder of ſuch ſon, and the heirs of his body ſhould be always preferred, and take before the younger of the ſame ſons, and the heirs male of his and their body and bodies, and in default of ſuch iſſue, to the uſe and behoof of all and every the daughter and daughters of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and they to take as tenants in common, and not as jointenants, nor to take by ſurvivorſhip, and of the heirs of the body and bodies of all and every ſuch daughter and daughters lawfully iſſuing, and failing iſſue of any of the ſaid daughters, then as to the ſhare and ſhares of ſuch daughter and daughters whoſe iſſue ſhould fail, to the uſe and behoof of all and every other

Recital of the limitation giving the wife power to appoint.

ſuch daughter and daughters to take in like manner, as tenants in common, and of the heirs of the body and bodies of ſuch other daughter and daughters lawfully iſſuing. And in caſe all ſuch daughters ſave one, ſhould die without iſſue, or if there ſhould be but one ſuch daughter, then to the uſe and behoof of ſuch only daughter, and the heirs of her body, and in default of ſuch iſſue, to the uſe and behoof of ſuch perſon and perſons for ſuch eſtate and eſtates, and in ſuch parts, ſhares, proportions, and in ſuch manner, and under and ſubject to ſuch powers, proviſos, limitations, and agreements as ſhe the ſaid *B. M.* by herſelf, alone, notwithſtanding her then intended coverture ſhould by any deed or deeds, writing or writings to be by her ſealed and delivered in the preſence of two or more credible witneſſes, or by her laſt will and teſtament in writing, or any writing purporting to be her laſt will and teſtament to be by her ſigned, ſealed, and publiſhed in the preſence of three or more ſuch witneſſes ſhould direct, limit, or appoint. And in default of ſuch direction, limitation and appointment, to the uſe and behoof of *J. J.* and *D. S.* therein named as tenants in common, their heirs and aſſigns for ever, and to and for no other uſe, intent or purpoſe whatſoever, and the truſt of the ſaid term of 99 years, is thereby declared to be for raiſing and paying by and out of the rents and profits of the premiſes mentioned, to be thereby granted and releaſed £—— annually, by quarterly payments to the ſaid *B. M.* during the joint lives of her and the ſaid *B. E.* for her own ſole and ſeparate uſe, and the ſaid term of 1000 PURCHASES.

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years is thereby declared to be in truſt, for raiſing portions and maintenance for younger children in manner therein mentioned. And it is by the ſame indenture, quinquepartite, declared and agreed, that it ſhould be lawful for the ſaid *B. E.* during his life, and after his deceaſe, for the ſaid *B. M.* by indenture to demiſe and leaſe the ſaid hereditaments and premiſes, to any perſon or perſons for any term or number of years not exceeding 21 years from the making thereof, ſo as in every ſuch leaſe or leaſes, there ſhould be reſerved the beſt and moſt improved rent, without taking any fine or income, and ſo as the leſſees ſhould not be freed from impeachment of waſte, and ſo as in every ſuch leaſe and leaſes there be contained a clauſe of re-entry, if the rent and rents thereupon reſerved, ſhould be behind and unpaid for 21 days, and and ſo as the leſſees ſhould execute counterparts of ſuch leaſes. And it is thereby declared and agreed, that it ſhould be lawful to and for the ſaid *B. E.* and *B.* his intended wife, or the ſurvivor of them, by any deed or deeds to be by both of them, or by him or her ſurviving, ſealed and delivered in the preſence of two or more credible witneſſes, to charge by way of raiſing, limiting, or granting any term or terms of years, or any other ways, all or any of the ſaid capital meſſuage, meſſuages, lands, &c. with any ſum or ſums of money not exceeding in the whole the ſum of —— for ſuch purpoſes as they the ſaid *B. E.* and *B.* his intended wife, or the ſurvivor of them ſhall think fit, as in and by the ſaid in part recited indenture, quinquepartite, relation being thereunto had more fully and at large

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appear. AND whereas the ſaid marriage took effect, and the ſaid *B. E.* hath had two children by the ſaid *B. M.* who are both dead without iſſue, and the ſaid *B. E.* and *B.* his wife, have for ſome time paſt, by mutual conſent, lived ſeparate. AND whereas the ſaid *B. M.* being deſirous of raiſing a ſum of money in order to increaſe her income, hath propoſed to ſell the remainder or reverſion of and in one undivided moiety, or full half part, (the whole in two equal parts to be divided) of the meſſuages, &c. hereinafter particularly mentioned and deſcribed, being part of the eſtate ſituate at ——— in the pariſh of —— aforeſaid, and which ſaid remainder or reverſion expectant on the death of the ſaid *B. E.* and failure of the firſt and other ſons of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and the ſeveral and reſpective heirs male of the body and bodies of all and every ſuch ſon and ſons lawfully iſſuing, and failure of all and every the daughter and daughters, of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and of the heirs of the body and bodies of all and every ſuch daughter and daughters, ſhe the ſaid *B. M.* by virtue of the ſaid recited indenture quinquepartite hath power to direct, limit and appoint. AND whereas the ſaid *A. B.* hath contracted and agreed with the ſaid *B. M.* for the abſolute purchaſe of the ſaid remainder or reverſion expectant as aforeſaid, of, and in the ſaid one undivided moiety or full half part of the meſſuages, farms, lands, tenements and hereditaments hereinafter particularly mentioned and deſcribed, at and for the price or

Recital of there being no iſſue at preſent of the marriage.

Wife deſirous of ſelling her contingent reverſionary intereſt, on failure of iſſue.

Contract for the ſale.

PURCHASES. ſum of —— which ſaid ſum of —— the purchaſe money, is to be paid to the ſaid *E. M.* and *A. T.* in truſt, to and for the ſole and ſeparate uſe of the ſaid *B. M.* and the ſaid *B. M.* hath agreed to limit and appoint the other parts of the ſaid eſtate to the ſaid *F. G.* and *T. W.* as truſtees in order to indemnify the ſaid *A. B.* his heirs and aſſigns, againſt any claim or claims which may be made on the hereinafter limited and appointed moiety of the ſaid meſſuages, &c. hereinafter deſcribed, either under and by virtue of the power in and by the ſaid hereinbefore in part recited indenture given to the ſaid *B. E.* and *B.* his wife, or the ſurvivor of them, to charge the ſaid premiſes with the payment of the ſum of —, as hereinbefore mentioned, which ſaid ſum of —— was accordingly raiſed by the ſaid *B. E.* and *B.* his wife, ſhortly after the ſolemnization of the ſaid marriage, in purſuance and by virtue of the power ſo given to them as aforeſaid, in and by the ſaid hereinabove in part recited indenture of releaſe quinquepartite, or for or on account of any other ſum or ſums whatſoever, which have been raiſed and received by the ſaid *B. E.* and *B.* his wife, or either of them, by force and virtue, or in purſuance of any power or authority contained in the ſaid recited indenture quinquepartite, or for or on account of the ſaid annual ſum of —— payable to the ſaid *B. M.* during the joint lives of her and her ſaid huſband as aforeſaid, or any arrears thereof. Now this indenture witneſſeth, that in purſuanee of the ſaid recited contract and agreement, and for and in conſideration of the ſum of —— of lawful money

Indenture witneſſeth.

of *Great Britain*, to the ſaid *M. E.* and *A. T.* at or before the ſealing and delivering of theſe preſents, in hand, well and truly paid by the ſaid *A. B.* at the requeſt and by the direction and appointment of the ſaid *B. M.* (teſtified by her being a party to and ſealing and delivering theſe preſents,) the payment and receipt whereof the ſaid *M. E.* and *A. T.* do hereby acknowledge, and thereof, and of every part and parcel thereof, they, and alſo the ſaid *B. M.* do, and each and every of them, doth acquit, releaſe and diſcharge, the ſaid *A. B.* his heirs, executors, adminiſtrators and aſſigns, and every of them, for ever by theſe preſents, ſhe the ſaid *B. M.* by force and virtue of the ſaid power or authority to her given, granted, limited, or reſerved in and by the ſaid hereinabove in part recited indenture of releaſe, quinquepartite, and of all and every other power and authority, and powers and authorities to her belonging, in her veſted, or enabling her in this behalf, and in exerciſe and execution thereof, hath directed, limited and appointed, and by this preſent deed or writing by her the ſaid *B. M.* ſealed and delivered in the preſence of the two credible perſons, whoſe names are intended to be hereon indorſed, as witneſſes to the ſealing and delivery of theſe preſents, by the ſaid *B. M.* doth direct, limit, and appoint, unto the ſaid *A. B.* his heirs and aſſigns, from and immediately after the deceaſe of him the ſaid *B. E.* and from and after failure of the firſt and other ſons of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and after failure of the ſeveral and reſpective heirs male of the body and bodies of all and every ſuch ſon

PURCHASES.

See ante, p 60.

Wife limits and appoints to the purchaſer after the deceaſe of her huſband and failure of iſſue of the marriage.

PURCHASES.

and ſons lawfully iſſuing, and after failure of all and every the daughter and daughters of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and after failure of heirs of the body and bodies of all and every ſuch daughter and daughters, lawfully iſſuing. All that one undivided moiety or half part, (the whole into two equal parts to be divided,) of all that, &c. and all rights, &c. and the reverſion, &c. and all the eſtate, &c. of her the ſaid *B. M.* expectant, upon and to take effect from and after the deceaſe of the ſaid *B. E.* and after failure of the firſt and other ſons of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and from and after failure of the ſeveral and reſpective heirs male of the body and bodies of all and every ſuch ſon and ſons, lawfully iſſuing, and from and after failure of all and every the daughter and daughters of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and from and after failure of heirs of the body and bodies of all and every ſuch daughter and daughters, lawfully iſſuing, of and in the ſaid hereinbefore by theſe preſents directed, limited, and appointed, moiety of the ſaid meſſuages, &c. hereinbefore particulary mentioned and deſcribed, to have and to hold the ſaid hereby directed, limited, and appointed, moiety, or full half part, of the ſaid meſſuages, &c. hereinbefore particularly mentioned and deſcribed, with their and every of their appurtenances, unto the ſaid *A. B.* his heirs and aſſigns, to the only uſe and behoof of the ſaid *A. B.* his heirs and aſſigns, for ever, from and immediately after the deceaſe

Parcels being a moiety of the ſettled premiſes.

To hold to the purchaſer in fee after, &c.

of the ſaid *B. E.* and from and after failure of the firſt and other ſons of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and from and after failure of the ſeveral and reſpective heirs male of the body and bodies of all and every ſuch ſon and ſons lawfully iſſuing, and from and after failure of all and every the daughter and daughters of the body of the ſaid *B. E.* on the body of the ſaid *B. M.* to be begotten, and from and after failure of heirs of the body of all and every ſuch daughter and daughters lawfully iſſuing. And for the aforeſaid conſiderations, the ſaid *B. M.* doth covenant, promiſe, and agree, to and with the ſaid *A. B.* his heirs and aſſigns, by theſe preſents, that ſhe the ſaid *B. M.* ſhall and will, from time to time, and at all times hereafter, during the term of her natural life, upon every reaſonable requeſt, and at the proper coſts and charges of the ſaid *A. B.* his heirs or aſſigns, make, do, acknowledge, levy, ſuffer, and execute, or cauſe or procure to be made, done, acknowledged, levied, ſuffered, and executed, all and every ſuch further and other lawful and reaſonable act and acts, thing and things, deed and deeds, appointments, conveyances, and aſſurances, in the law, whatſoever, for the further better, more perfect, and abſolutely directing, limiting, and appointing, granting, conveying, and aſſuring, the ſaid hereby directed, limited, and appointed moiety, of and in the meſſuages, &c. hereinbefore particularly mentioned and deſcribed, and of and in the appurtenances thereof, as by the ſaid *A. B.* his heirs or aſſigns, or his or

Covenant for further aſſurance.

PURCHASES.

their counſel learned in the law, ſhall be reaſonably adviſed, or deviſed and required, ſo as for the making, doing, acknowledging, ſuffering, or executing, thereof, ſhe the ſaid *B. M.* be not compelled or compellable to go or travel from her then dwelling, or place of abode. AND this indenture further witneſſeth, that for the aforeſaid conſiderations, and for indemnifying the ſaid *A. B.* his heirs, executors, adminiſtrators, and aſſigns, and the ſaid hereinbefore directed, limited, and appointed moiety of the ſaid meſſuages, &c. with their and every of their appurtenances, of, from, and againſt, not only the payment of the ſaid ſum of ——, which in and by the ſaid hereinabove part recited indenture of releaſe quinquepartite, the ſaid *B. E.* and *B.* his wife, or the ſurvivor of them, have or hath power to charge upon the ſaid moiety of the ſaid meſſuages, &c. hereby directed, limited, and appointed, or intended ſo to be, with their appurtenances, amongſt other the hereditaments and premiſes in the ſaid hereinabove recited indenture quinquepartite mentioned, but alſo of, from, and againſt, all and every other ſum or ſums of money whatſoever, which have been raiſed and received by the ſaid *B. E.* and *B.* his wife, or either of them, by force and virtue, or in purſuance of any power or authority contained in the ſaid recited indenture quinquepartite, and alſo of, from, and againſt, the ſaid annual ſum of —— payable to the ſaid *B. M.* during the joint lives of her and her ſaid huſband as aforeſaid, or any arrears thereof, ſhe the ſaid *B. M.* in further purſuance of the ſaid recited contract and agree-

Further witneſs that wife limits and appoint the *other moiety* of the ſame premiſes to truſtees.

ment, and by force, &c. (*like limitation of the other moiety of the ſaid meſſuages &c. unto F. G. and F. W. as of the moiety hereinbefore limited to the ſaid A. B.*) upon truſt, nevertheleſs, that in caſe they the ſaid *B. E.* and *B.* his wife have, or either of them hath already charged or they the ſaid *B. E.* and *N.* his wife, or either of them, or the ſurvivor of them, ſhall by any deed or deeds, ſealed and delivered, as in and by the ſaid hereinabove in part recited indenture of releaſe quinquepartite, is directed, charge the ſaid moiety of the ſaid meſſuages, &c. hereinbefore directed, limited, and appointed, or intended ſo to be, unto the ſaid *A. B.* his heirs and aſſigns, or any part thereof, alone or jointly, with any other hereditaments, with the payment of the ſaid ſum of ——, or any part thereof, or of any other ſum or ſums of money, or for any other purpoſe whatſoever, or in caſe at the time of the death of the ſaid *B. E.* there ſhall be any arrears of the ſaid annual ſum of ——, payable to the ſaid *B. M.* during the joint lives of her and her ſaid huſband, as aforeſaid, they the ſaid *F. G.* and *T. W.* or the ſurvivor of them, or the heirs or aſſigns of ſuch ſurvivor, do and ſhall, by ſale or mortgage of the ſaid meſſuages, &c. hereby directed, limited, and appointed, unto and to the uſe of the ſaid *F. G.* and *T. W*, their heirs and aſſigns, or of a competent part thereof, or by and out of the rents and profits of the ſame premiſes, or by all or any the ways and means aforementioned, raiſe and levy all ſuch ſum and ſums of money as ſhall be ſufficient

Upon truſt by ſale or mortgage &c. to raiſe all ſuch ſums as may be charged upon the purchaſed premiſes by the huſband and wife.

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to pay, ſatisfy, and diſcharge the ſaid ſum of ——, or ſuch other ſum or ſums of money as aforeſaid, or ſo much thereof as they the ſaid *B. E.* and *B.* his wife, or either of them, have, or hath already charged, or as they the ſaid *B. E.* and *B.* his wife, or the longer liver of them, ſhall, in manner aforeſaid, charge upon the ſaid moiety of the ſaid meſſuages, &c. ſo directed limited, and appointed, to the ſaid *A. B.* his heirs and aſſigns, as aforeſaid, or upon any part or parcel thereof, together with all intereſt that ſhall be due for the ſame, up to the day of the payment thereof, and alſo all arrears which at the time of the death of the ſaid *B. E.* ſhall happen to be of the ſaid annual ſum of ——, payable to the ſaid *B. M.* during the joint lives of her and her ſaid huſband, as aforeſaid; and all coſts, charges, damages, troubles, and expences, to be incurred or ſuſtained by the ſaid *A. B.* his heirs or aſſigns, by reaſon or means thereof, and alſo all the coſts, and charges, and expences, which they the ſaid *F. G.* and *T. W.* or the ſurvivor of them, or the heirs or aſſigns of ſuch ſurvivor, ſhall bear, or pay, ſuſtain, be at, or be put unto, in, or about the levying and raiſing ſuch ſum and ſums of money as aforeſaid, and do, and ſhall pay, apply, and diſpoſe of all ſuch ſum and ſums of money, ſo to be raiſed and levied as aforeſaid, in making ſuch payments and diſcharges as aforeſaid, accordingly. And ſhe the ſaid *B. M.* doth hereby further direct, limit, and appoint that ſubject to the truſts aforeſaid, they the ſaid *F. G.* and *T. W.* and the ſurvivor of them, and the heirs of ſuch ſurvivor, ſhall ſtand and be ſeiſed of all the ſaid premiſes,

Subject thereto, the truſt premiſes to be to the uſes of the recited ſettlement,

ſo as aforeſaid, to them directed, limited, and appointed, in truſt for ſuch perſon or perſons, for ſuch eſtate and eſtates, and in ſuch parts, ſhares, and proportions, and manner, and under and ſubject to ſuch powers, proviſos, limitations, and agreements, as ſhe the ſaid *B. M.* by herſelf alone, notwithſtanding her coverture by any deed or deeds, writing or writings, to be by her ſealed and delivered in the preſence of two or more credible witneſſes, or by her laſt will and teſtament, in writing, or any writing purporting to be her laſt will, to be by her ſigned, ſealed, and publiſhed, in the preſence of, and atteſted by three or more credible witneſſes, ſhall direct, limit, or appoint. And in default of ſuch direction, limitation, and appointment, in truſt, and to and for the uſe and behoof of *I. I.* now or late of, &c. and *D. S.* the wife of the above named *D. H.* as tenants in common, their heirs and aſſigns, for ever, and to and for no other truſt, uſe, intent, or purpoſe, whatſoever. In witneſs, &c. PURCHASES.

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* *Appointment and Releaſe of Lands to a Purchaſer, by a Feme Covert, (in which her Huſband joins,) under a Power reſerved by them in a Deed of Revocation and new Appointment of Uſes under their Marriage Settlement.*

THIS indenture made the —— day of —— &c. between *T. T.* of &c. and *L.* his wife, late *L. N.* (who was the widow and relict, and is alſo the ſole deviſee in fee, mentioned in the laſt will and

PURCHASES.

teſtament of *W. N.* late of &c. of the one part, and *G. W.* of &c. &c. *I. M.* of &c. of the other part.) WHEREAS under and by virtue of a certain deed poll of revocation, and new appointment of uſes, under the reſpective hands and ſeals of the ſaid *T. T.* and *L.* his wife, and bearing date on or about the —— day of —— which was in the year of our Lord —, the meſſuage, tenement or dwelling houſe and other hereditaments hereinafter particulatly deſcribed, was and were, and doth now ſtand limited, appointed ſettled, and aſſured, (together with other meſſuages and hereditaments of the ſaid *L. N.*) unto and for the only proper uſe and behoof of the ſaid *L. N.* and her aſſigns, for and during the time of her natural life, (*a*) without impeachment of waſte, and from and after the determination of that eſtate by forfeiture or otherwiſe, in her life time, to the uſe of certain truſtees therein named, and their heirs during her life, upon truſt, to preſerve the contingent uſes after limited by the ways and means therein mentioned, but nevertheleſs, to permit and ſuffer the ſaid *L.* and her aſſigns, to receive and take the rents, iſſues and profits of the ſaid premiſes, during her life, for her ſole and ſeparate uſe, benefit and diſpoſal, *and from and immediately after the deceaſe of the ſaid L. then L. T.* to the uſe and behoof of ſuch perſon and perſons, and for ſuch eſtate and eſtates, intereſt and intereſts, and to and for ſuch ends, intents and purpoſes, and upon ſuch truſts,

Recital of deed, poll of revocation and new appointment.

(*a*) See note at the end of this precedent.

and charged and chargeable in ſuch manner, and ſubject to, by, with, and under ſuch powers of revocation, and ſuch other powers, proviſos, reſtrictions, clauſes, limitations and agreements, as ſhe the ſaid *L.* the wife of the ſaid *T. T.* (notwithſtanding her coverture) by any deed or deeds, writing or writings, or by her laſt will and teſtament in writings, or any codicil thereto, to be by her duly executed and atteſted, ſhould direct and limit, or appoint, give, deviſe or bequeath the ſame or any part thereof, and for want of ſuch direction, gift, deviſe, or bequeſt of the whole or any part thereof, or in caſe any ſuch ſhould be, when and as the eſtates or intereſts thereby limited or appointed, ſhould reſpectively end and determine, and in the mean time ſubject thereto, and as to ſuch parts of the ſaid premiſes, of which there ſhould be no ſuch direction, limitation, or appointment, gift, deviſe, or bequeſt, to and for the only proper uſe, and behoof of the ſaid *L. T.* her heirs and aſſigns for ever, as in and by the ſaid deed of revocation and new appointment, recourſe being thereto had, will more fully appear. AND whereas the ſaid *G. W.* party hereto, hath coutracted and agreed, to and with the ſaid *T. T.* and *L.* his wife, for the abſolute purchaſe of the fee ſimple and inheritance in poſſeſſion, free from all incumbrances of and in the ſaid meſſuages, tenements and hereditaments hereinafter deſcribed, and intended to be hereby directed and appointed, granted and releaſed, (being parcel of the hereditaments compriſed in the ſaid deed of revocation and new appointment,) at, or for the price or ſum of ——,

PURCHASES.

Contract for the purchaſe.

PURCHASES.

Indenture witneſſeth that the wife appoints the premiſes

Now therefore this indenture witneſſeth, that in purſuance of the ſaid agreement, and for and in conſideration of the ſum of —— of lawful money of *Great Britain*, to the ſaid *T. T.* and *L.* his wife or one of them, in hand, at or before the ſealing and delivering of theſe preſents, well and truly paid by the ſaid *G. W.* the receipt whereof the ſaid *T. T.* and *L.* his wife, doth hereby acknowledge, and of and from the ſame and every part thereof, do, and each of them doth acquit, releaſe, and for ever diſcharge the ſaid *G. W.* his heirs, executors, and adminiſtrators, and every of them by theſe preſents, ſhe the ſaid *L. T.* in purſuance and exerciſe, and by force and virtue of the power and authority ſo to her for this purpoſe given or reſerved in or by the ſaid recited deed of revocation, and new appointment as aforeſaid, and of all and every other power and powers, authority and authorities whatſoever, to her given, or reſerved, in her veſted, or in any wiſe enabling her in this behalf, hath directed, limited, and appointed, and by this preſent deed or writing, ſealed and delivered, by her the ſaid *L. T.* in the preſence of the two credible perſons, whoſe names are intended to be hereupon indorſed, as witneſſes atteſting her execution hereof, doth at the requeſt of the ſaid *G. W.* teſtified as hereinafter mentioned, direct, limit or appoint, that all that meſſuage, &c. and all ways, &c. reverſions, &c. and all the eſtate &c. ſhall from henceforth go, remain, continue, and be to the ſole proper uſe and behoof of the ſaid *G. W.* and *I. M.* and the heirs and aſſigns, of the ſaid *G. W.* for ever, but nevertheleſs as to

to the purchaſer and his truſtee.

the eſtate and intereſt therein of the ſaid *I. M.* in truſt only for the ſaid *G. W.* his heirs and aſſigns, and to, for, or upon no other truſt, intent, or purpoſes whatſoever. AND this indenture further witneſſeth, that for the conſiderations aforeſaid and for the better and more effectually veſting the aforeſaid meſſuages, tenements and dwelling houſe and premiſes in the ſaid *G. W.* and *I. M.* and the heirs and aſſigns of the ſaid *G. W.* and alſo for and in conſideration of the ſum of 10*s.* of like lawful money to the ſaid *T. T.* and *L.* his wife, at or before the ſealing and delivering of theſe preſents, well and truly paid by the ſaid *G. W.* and *I. M.* the receipt whereof is hereby acknowledged, they the ſaid *T. T.* and *L.* his wife, at the ſpecial intereſt and requeſt of the ſaid *G. W.* teſtified by his being made a party to, and executing theſe preſents, have, and each of them hath granted, bargained, ſold, aliened, releaſed and confirmed, and by theſe preſents do, and each of them doth grant, bargain, ſell, alien, releaſe and confirm unto the ſaid *G. W.* and *I. M.* (in their actual poſſeſſion now being) by virtue of a bargain and ſale to them thereof, made by the ſaid *T. T.* and *L.* his wife, in conſideration of 10s. by indenture bearing date the day next before the day of the date of theſe preſents, for one whole year, and commencing from the day next before the day of the date of the ſame indenture of bargain and ſale, and by force of the ſtatute made for transferring uſes into poſſeſſion, and to their heirs, all that and thoſe the ſaid meſſuages, tenements, or dwelling houſes, with yard, garden, hereditaments, and premiſes, hereinbefore

PURCHASES.

Indenture further witneſſeth,

that the appointment, releaſe, &c.

See ante, p. 7.

PURCHASES. deſcribed, and ſo hereby directed, limited, and appointed, by the ſaid *L. S.* as aforeſaid, with their and every of their appurtenances, and all and ſingular other the hereditaments whatſoever, which by a certain indenture tripartite, of releaſe, bearing date the — day of ——, and made, or mentioned to be made, between the ſaid *H. M.* ſince deceaſed, of the firſt part, *J. L.* aforeſaid, of the ſecond part, and *T. B.* of, &c. gent. of the third part, were conveyed, limited, or appointed, to the uſe of the ſaid *H. M.* his heirs and aſſigns, or intended ſo to be, and the reverſions, &c. eſtate, &c. deeds, &c. To HAVE AND HOLD the ſaid meſſuages, tenements, or dwelling-houſes, yard and garden, out-houſes edifices, and buildings, thereunto belonging, and all and every other the hereditaments and premiſes hereinbefore mentioned to be hereby granted and releaſed, or intended ſo to be, with their appurtenances, unto the ſaid *G. W.* and *I. M.* their heirs and aſſigns, to the only proper uſe and behoof of the ſaid *G. W.* and *I. M.* and the heirs and aſſigns of the ſaid *G. W.* for ever. But as to the eſtate and intereſt of the ſaid *I. M.* in the ſaid premiſes, in truſt only, for the ſaid *G. W.* his heirs and aſſigns, (covenant by *T. T.* for himſelf and *L.* his wife, and for his and her heirs, executors, and adminiſtrators, with *G. W.* his heirs and aſſigns, that they will levy a fine *ſur con. de d oit come ceo*, &c. unto the ſaid *G. W.* and *I. M.* and the heirs of the ſaid *G. W.* to enure to the uſe of the ſaid *G. W.* and *I. M.* and the heirs and aſſigns of the ſaid *G. W.* for ever, but nevertheleſs, as to the eſtate and intereſt of the ſaid

Habendum,

to the purchaſer, &c. in fee.

I. M. in truſt only as aforeſaid (*a*). Like covenants for the title with the ſaid *G. W.* and *I. M.* and the heirs and aſſigns of the ſaid *G. W.* Like PURCHASES.

(*a*) It will be perceived on referring to the preceding recital of the marriage ſettlement of Mr. and Mrs. *T.* (p. 62.) that both their freehold meſſuages, &c. are limited to the only proper uſe and behoof of the *truſtees, their heirs and aſſigns* for ever, to, for, and upon the ſeveral uſes, truſts, intents, and purpoſes thereinafter limited &c. concerning the ſame, conſequently the *legal* eſtate was thereby limited to the truſtees; and the ſubſequent eſtates attempted to be limited by way of *uſe*, could only be in nature of *truſt*, but as the ſettlement contains a proviſo enabling Mr. and Mrs. T. at their free will and pleaſure, from time to time, and at *any time or times*, to revoke, alter, make void, or change all *and every or any* or either of the uſe or uſes, eſtate or eſtates, truſts, &c. therein mentioned, declared, limited or appointed; and by the ſame or any other deed, &c. to limit, declare, and appoint any new or other uſe or uſes of the premiſes or any part thereof, and *with or without power of revocation*, and ſo *from time to time*, as they ſhould jointly think fit, and as they by their joint deed of revocation, did in purſuance of ſuch their power, *abſolutely* revoke, alter, make void, and change *all and every* ſuch *uſe* and uſes, eſtates, truſts, &c. in and by the ſettlement ſeverally mentioned, expreſſed, declared, *limited*, or appointed, concerning the premiſes, they of courſe revoked the *only legal uſe* thereby limited, which was to the truſtees and their heirs, who thereupon ceaſed to have any eſtate remaining in them. They then by the ſame deed, limit and appoint certain *legal* uſes of the meſſuages late belonging to Mrs. T. and the firſt of ſuch uſes is *unto and for the only proper uſe*, and behoof of *Mrs. T. and her aſſigns, during her life*, with remainder to the uſe of the ſaid truſtees, to preſerve the contingent remainders. And from and immediately after her deceaſe, then to the uſe of ſuch perſons, &c. as ſhe ſhall by deed or will appoint, and after all the uſes are diſtributed in the deed of revocation, the words, "*to and for no other uſe or uſes, intereſt or purpoſes*, whatſoever." are made uſe of, there

PURCHASES. covenant to produce the marriage ſettlement and the deed of revocation, and new appointment. In witneſs, &c.

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was no other power of revocation and new appointment inſerted in this deed, as there undoubtedly might have been if the parties had choſen, but the laſt words therein ſhow that they had it not in contemplation, therefore the power of appointing new uſes under the ſettlement or ſubſequent deed is out of the queſtion, for it ſeems to me that as no new power of revocation was reſerved in the laſt deed, the power given to Mr. and Mrs. T. in the ſettlement is extinct, and the premiſes ſtand *irrevocably* ſettled to the uſes limited by ſuch deed of revocation and new appointment, the firſt of which uſes is to Mrs. T. for life, and I know not how ſuch life eſtate can be diveſted out of her but by a fine, becauſe her power of appointment is only of the *reverſion* of the premiſes, from and after her deceaſe.

As the purchaſe money is ſo ſmall, I am ſorry I can't think myſelf at liberty to adviſe payment of it without a fine, unleſs the purchaſer thinks proper to accept Mr. T.'s bond to warrant the title. But as it is likely Mrs. T.'s other uſes may be ſold, the beſt method appears to me for Mr. and Mrs. T. to levy a fine of the whole to Meſſrs. M. L. and T. (the truſtees in the deed of revocation and new appointment) and the heirs of one of them, and by a ſeparate deed to declare that the ſame ſhall enure to ſuch uſes, &c. as Mr. and Mrs. T. ſhall by deed jointly appoint, and for want of, and until ſuch appointment, to the uſe of the truſtees during the joint lives of Mr. and Mrs. T. upon truſt to apply the rents for the ſeparate uſe of Mrs. T. and if Mr. T. die in her life time, to the uſe of Mrs. T. in fee; but if ſhe dies in *his* life time, then to the uſe of ſuch perſons as ſhe (notwithſtanding her coverture) ſhall by will appoint, and for want of ſuch appointment, to her own right heirs, and then I truſt Mr. and Mrs. T. will be able to make a good title to the purchaſers. *MSS. Op.*

Deed of Appointment of a Manor, Advowſon, Lands, &c. to a Purchaſer, by Virtue of a Power of Sale, &c. contained in a Marriage Settlement.

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THIS indenture tripartite, &c. made between the moſt noble —— duke of ——, and ——, of &c. eſq. of the firſt part, —— of, &c. eſq. of the ſecond part, and ——, earl of ——, (*the purchaſer,*) of the third part. [Recital of a marriage ſettlement, in which the power to make the preſent appointment is contained.] In which ſaid indenture of releaſe and ſettlement now in recital, is contained a proviſo or power, whereby it was declared and agreed, by and between the ſaid parties thereto, that notwithſtanding any of the uſes, eſtates, limitations, and truſts, thereinbefore contained, it ſhould and might be lawful, to and for the ſaid —, and —, and to and for the ſaid —— and ——, and the ſurvivor, and the heirs and aſſigns of ſuch ſurvivor, at any time or times during the natural lives or life of the ſaid —— and ——, or the life of the ſurvivor of them, by and with the conſent and approbation of the ſaid —— and ——, or the ſurvivor of them, (teſtified by ſome writing under the hands and ſeals, or hand and ſeal, of them, or the ſurvivor of them, and to be atteſted by two or more credible witneſſes,) to ſell, diſpoſe of, or convey in exchange for, or in lieu of other freehold lands and hereditaments, in fee ſimple, in poſſeſſion, and copyhold lands of inheritance, or either of them, to be ſituated ſomewhere in that part of *Great Britain* called *England*, all

Recital of power of ſale.

See ante, p. 5, 34.

PURCHASES. and every or any of the manors, meſſuages, lands, tenements, hereditaments, and premiſes, thereby granted and releaſed, or intended ſo to be, with the rights, members, and appurtenances, thereto belonging, and the fee ſimple and inheritance thereof, to any perſon or perſons, and his, her, or their heirs and aſſigns, either together or in parcels, for ſuch price or prices, in money, or for ſuch other equivalent in lands or hereditaments, as to them the ſaid —— and ——, or the ſurvivor of them, or the heirs of ſuch ſurvivor, ſhould ſeem reaſonable, and for that end it ſhould and might be lawful to and for the ſaid —— and ——, and the ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor, (by and with ſuch conſent and approbation, and teſtified as aforeſaid,) by any deed or deeds, writing or writings, to be by them, or the ſurvivor of them, ſealed and delivered, in the preſence of, and atteſted by two or more credible witneſſes, to revoke, determine, and make void, all and every of the uſes, truſts, eſtates, powers, and proviſos, and limitations, thereinbefore limited, created, declared, and contained, of and concerning the manors, meſſuages, lands, tenements, hereditaments, and premiſes, therein before granted and releaſed, or intended ſo to be, which ſhould be ſo ſold, diſpoſed of, or exchanged, and by the ſame or any other deed or deeds, writing or writings, to be ſealed, and delivered, and atteſted, as aforeſaid, to limit and appoint the ſame manors, meſſuages, lands, hereditaments, and premiſes whereof the uſes ſhould be ſo revoked either unto ſuch purchaſer or pur-

chaſers, or the perſon or perſons making ſuch exchange or exchanges, and his and their heirs, or otherwiſe to limit, create, declare, and appoint, ſuch new or other uſe or uſes, truſt or truſts, of and concerning the ſame manors, meſſuages, lands, hereditaments, and premiſes, as ſhould be requiſite to, and neceſſary for the executing and effecting ſuch ſale, diſpoſition, or exchange, and upon payment and receipt of the money ariſing by ſale of the ſaid rents, or any part thereof, unto and by the ſaid —— and——, or the ſurvivor of them, or the heirs of ſuch ſurvivor, when any ſuch part or parts thereof ſhould be ſold for a valuable conſideration in money, for them the ſaid truſtees or truſtee for the time being, to ſign and give a proper receipt or receipts for the ſame, which receipt and receipts ſhould be a diſcharge or diſcharges to the purchaſer or purchaſers, for the money therein acknowledged or expreſſed to be received, and ſuch purchaſer or purchaſers ſhould not afterwards be anſwerable or accountable for any loſs, miſ-application, or non-application, of ſuch purchaſe money, ſo received, or any part thereof, and when any of the ſaid premiſes ſhould be ſo ſold for a valuable conſideration in money, and ſuch proper receipts, ſhould be given and ſigned for the purchaſe money, as aforeſaid, and alſo when any of the ſaid premiſes ſhould be diſpoſed of, or conveyed in exchange for, or in lieu of other lands or hereditaments, taken in exchange, and the fee ſimple and inheritance thereof ſhould be well veſted in the ſaid— and —, or the ſurvivor of them, or in the heirs of ſuch ſurvivor, the premiſes

PURCHASES.

PURCHASES. ſo ſold or exchanged, ſhould be diſcharged from all the uſes, eſtates, truſts, proviſos, and agreements, therein before limited, expreſſed, and declared, concerning the ſame, (except only as to ſuch leaſes as ſhould have been made thereof, or of any part thereof, purſuant to the power thereinbefore mentioned,) as in and by the ſaid recited indenture of leaſe, releaſe, and ſettlement, reference being thereunto had, will more fully appear.

Recital of contract for ſale. [Recital of appointment of new truſtees in the room of the former ones deceaſed.] AND whereas the ſaid —— duke of ———, and ——, (at the requeſt, and with the conſent and approbation of the ſaid ——,) have contracted and agreed with the ſaid —— earl of —, for the aforeſaid ſale to him, in fee ſimple of the ſaid manor or hereditaments of —, and the rectory and advowſon of —, and the meſſuages, farms, lands, tithes, tenements, and hereditaments, hereinafter particularly deſcribed, and intended to be hereby limited, and appointed, and granted, and releaſed, for the ſum of ——, and for the timber now growing thereon, at and for the produce or ſum of ——, making together the ſum of ———. Now this indenture witneſſeth, that in purſuance of the ſaid recited contract or agreement, and for carrying the ſame into execution, and for and in conſideration of the ſum of ——, of good, &c. at or before the ſealing and delivery of theſe ſaid preſents, well and truly in hand paid by the ſaid —— earl of —— to the ſaid —— duke of ——, and by and with the conſent and approbation of the ſaid ——, teſtified as hereinafter is expreſſed, the receipt and payment of which ſaid ſum of ——, in full, for

Indenture witneſſeth.

ſuch ſale as aforeſaid, they the ſaid — exerciſe and —, and — ſeverally and reſpectively ackn— of ——, and thereof, and of and from the ſame and e— like part thereof, do, and each of them doth acquit, releaſe, and diſcharge, the ſaid earl of —, his heirs, executors, and adminiſtrators, for ever, by theſe preſents, which ſaid ſum of —, is the ſame ſum mentioned to be the conſideration of a certain indenture of bargain and ſale tripartite, bearing even date herewith, and intended to be enrolled in his majeſty's High Court of Chancery, and alſo for and in conſideration of the further ſum of 10s. of like money to the ſaid — earl of —, and —, and —, in hand, likewiſe, at or before the ſealing and delivery of theſe preſents, paid by the ſaid —, the receipt whereof is hereby acknowledged, and in purſuance, and exerciſe, and execution, of the power and authority given to or veſted in them the ſaid — duke of —, the ſaid — and — by the ſaid recited indenture of releaſe, of the —— day of ——, or by the ſaid laſt in part recited indenture of appointment and releaſe of the —— day of —— laſt, or by either of them, and by virtue of all and every other powers and power, and authority and authorities whatſoever, for this purpoſe, in the ſaid ——veſted, to them belonging or appertaining in this behalf, or in any wiſe enabling them thereunto, and in exerciſe and execution thereof, they the ſaid —— duke of — and —, at the requeſt, and by and with the conſent and approbation of the ſaid —, teſtified by his being a party to, and ſigning and ſealing this preſent deed or writing, in the preſence of the two ſeveral credible perſons, whoſe names are intended to be hereupon

PURCHASES.

appointee.

PURCHASES. ſo ſold or exchanged, attesting the ſigning all the ſaid ——, have, and ment determined, and made deed or writing, by them e preſence of the two ſeve- ſe names are intended to be ritten and indorſed as wit- xecution thereof, by the ſaid of ——, do, and each of them rmine, and make void, all and every u uſts, eſtates, powers, proviſos, and limitations, in and by the ſaid hereinbefore in part recited indenture of releaſe and ſettlement of the — day of ——, limited, created, declared, and contained, ſo far as the ſame, or any of them, relate to, reſpect, or concern the ſaid manor or lordſhip of ———, advowſon, meſſuages, farms, lands, tithes, tenements, and hereditaments, hereinafter particularly deſcribed, and mentioned, and intended to be hereby limited and appointed, granted, and releaſed, and conveyed, every or any part or parcel thereof, with their and every of their rights, members, and appurtenances, and alſo in purſuance, and exerciſe, and execution, of the further power and authority given to or veſted in them by the ſaid hereinbefore in part recited indenture of releaſe and ſettlement of the — day ——, and by the ſaid hereinbefore in part recited indenture of appointment and releaſe of the — day of —— laſt, or by either of them, and by virtue of all and every other powers and power, authorities and authority, for this purpoſe in them veſted, or to them belonging or appertaining, or them in

any wife enabling thereunto, and in exercife and execution thereof, they the ſaid —— duke of ——, and — at the like bequeſt, and by and with the like conſent and approbation of the ſaid ——, teſtified as hereinbefore mentioned, have and each of them hath limited, declared, and appointed, and (by this preſent, deed, or writing, by them ſealed and delivered, and intended to be atteſted as aforeſaid) do limit, declare and appoint, that all the ſaid manors or lordſhip of ———, advowſon, meſſuages, farms, lands, tithes, tenements, and hereditaments, hereinafter particularly deſcribed and mentioned, or intended to be granted and releaſed, and concerning which the uſes, truſts, eſtates, powers, proviſos, and limitations expreſſed and contained in the ſaid hereinbefore in part recited indenture, of releaſe and ſettlement of the —— day of ——, have been hereinbefore ſo revoked, determined, and made void as aforeſaid, and every of them, and every part and parcel thereof, with their and every of their rights, members and appurtenances, ſhall from henceforth remain, continue, and be, and the ſame in part recited indenture of releaſe and ſettlement, and all other conveyances and aſſurances of the ſame manor, meſſuages, farms, lands, tenements, and hereditaments, ſhall, as to, for, and concerning ſuch manor and hereditaments, and every part and parcel thereof, be and enure unto, and to the only proper uſe of the ſaid ——, earl of ——, his heirs and aſſigns for ever, and to or for ſuch uſe, intent, or purpoſe whatſoever. AND this indenture further witneſſeth, that for fur-

PURCHASES.

And appointee.

The purchaſer in fee.

PURCHASES.

Further witneſs.

ther aſſurance, and for the conſideration aforeſaid, and alſo for and in conſideration of the ſum of — of lawful money of *Great Britain*, to him the ſaid ——— in hand paid by the ſaid ——— earl of ——, at or before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, they the ſaid ——— duke of ———, and ——— at the like requeſt, and by and with the like direction and appointment of the ſaid ——, teſtified alſo as hereinbefore is mentioned, have, and each of them hath granted, (*a*) bargained, ſold, aliened, releaſed, diſpoſed of, and conveyed, and by theſe preſents do, and each of them doth, according to their reſpective eſtates and intereſts in the premiſes aforeſaid, ſo far as they reſpectively can and lawfully may bargain, ſell, alien, releaſe, diſpoſe of, and convey, and the ſaid, *I. W.* hath granted, bargained, ſold, aliened, releaſed, ratified, and confirmed, and by theſe preſents doth bargain, ſell, alien, releaſe, ratify, and confirm unto the ſaid ——— earl of ——, (in his actual poſſeſſion, &c. (the leaſe for a year to be made by truſtees and tenants for life) and to his heirs all &c. together with all deeds, evidences, receipts, aſſurances, and writings whatſoever, which ſolely relate to, or concern the ſaid manor or lordſhip, rectory, advowſon, hereditaments and premiſes, or any part or parcel thereof, which they the ſaid —— duke of ——, and —— and ——, or any or either of them, now

Appointors releaſe, &c. to the purchaſer.

(*a*) Truſtees do not uſually grant, but it is immaterial, as it does not imply a warranty. See poſt, title RELEASE, notes.

have in their or his cuſtody, or can come by without ſuit at law, or in equity, with true and atteſted copies of all ſuch deeds, evidences, and writings, in their or either of their cuſtody or powers which relate to, or concern the ſaid manor or lordſhip, hereditaments, and premiſes, together with other hereditaments of greater value, (the preſent copies to be made and written at the coſts and charges of the ſaid ——— his heirs, executors or adminiſtrators, but all future copies to be made and written at the coſts and charges of the ſaid —— earl of —, his heirs or aſſigns, To have and to hold the ſaid manor or lordſhip, rectory, advowſon, meſſuages, farms, lands, tithes, tenements, and hereditaments, and all and ſingular, other the promiſes hereinbefore mentioned, to be hereby limited and appointed, and granted, and releaſed, and every or any of them, and every part or parcel of them, with their and every of their rights, members, and appurtenances unto the ſaid —— earl of ——, his heirs and aſſigns, to and for the only proper uſe of him the ſaid —— earl of —— his heirs and aſſigns for ever, and to, or for no other uſe, intent, and purpoſe whatſoever. And the ſaid —— duke of ——, and ——, for themſelves, ſeverally and reſpectively, and for their ſeveral and reſpective heirs, executors and adminiſtrators, and not jointly, nor one for the other, or for the acts of the other, or of the heirs, executors, or adminiſtrators, of the other, do, and each of them doth covenant; promiſe, and declare, to and with the ſaid ——— earl of ——, his heirs and aſſigns, by theſe preſents, that the ſaid —— duke of ——, and ——,

PURCHASES.

Covenant by truſtees that they have not encumbered.

PURCHASES. have not, nor hath either of them reſpectively, at any time heretofore made, done, committed, or executed, or knowingly ſuffered or procured to be made, done, or committed, or executed, any act, deed, writing, matter or thing whatſoever, whereby, or by reaſon or means whereof the ſaid manors or lordſhips rectory, advowſon, meſſuages, farms, lands, tithes, tenements, and hereditaments hereinbefore mentioned, to be hereby limited and appointed, and granted, and releaſed, or intended ſo to be, or any of them, or any part or parcel thereof, are, or is, or can, ſhall or may, be charged, impeached, or incumbered, in title, charge, term, eſtate, or otherwiſe, howſoever, or whereby, or by reaſon or means, whereof the uſes, truſts, eſtates, powers, proviſos, and limitations, in and by the ſaid hereinbefore recited indenture of releaſe and ſettlement of the —— day of ——, created, declared and contained, of and concerning the ſame manors or lordſhip, meſſuages, farms, lands, tenements, and hereditaments, have or hath been revoked, determined, or made void, or by reaſon or means whereof any new or other uſe or uſes, have or hath been limited, created, declared, or appointed, of or concerning the ſame manor and hereditaments, or any part or parcel thereof. AND the ſaid —— for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, grant, and declare, to and with the ſaid &c. by theſe preſents, that for and notwithſtanding any act, deed, writing, matter or thing whatſoever, by them the ſaid —— duke of ——, and —— or either of them, or by him the ſaid ——, or any of his anceſtors,

Covenant by the appointor.

made, done, committed, or permitted to the contrary, that they the ſaid —— duke of ——, and ——, and the ſaid ——, (under and by virtue of the ſaid hereinbefore in part recited indenture of releaſe and ſettlement, of the — day of ——, and of the ſaid herein alſo before recited indenture of appointment and releaſe of four parts, or of, any of them, and of the power and powers therein reſpectively compriſed and contained, or ſome other powers or power, authorities or authority in them veſted, now have in themſelves, or ſome or one of them, now hath in himſelf, good right, full power, and lawful and abſolute authority and title, to make ſuch revocation, and alſo ſuch limitation and appointment as are hereinbefore reſpectively made and expreſſed, and moreover to grant, releaſe and convey the ſaid manor or lordſhip, rectory, advowſons, meſſuages, farms, lands, tithes, tenements and hereditaments, hereinbefore mentioned, to be hereby limited and appointed, and granted, and releaſed, and every part and parcel thereof, with their appurtenances, unto and to the uſe of the ſaid —— earl of ——, his heirs and aſſigns, for ever, in manner and form aforeſaid, and according to the true intent and meaning of theſe preſents. AND alſo that it ſhall and may be lawful to and for the ſaid —— earl of ——, his heirs and aſſigns, from time to time, and at all times hereafter, peaceably and quietly, to have, hold, uſe, occupy, poſſeſs, and enjoy all and ſingular the ſaid manor or lordſhip, rectory, advowſons, meſſuages, farms, lands, tithes, tenements, and hereditaments, hereinbefore mentioned, to be hereby

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that he has power to revoke the appoint.

Quiet enjoyment.

PURCHASES. limited and appointed, and granted, and releaſed, or intended ſo to be, and every part and parcel thereof, with their and every of their rights, members, and appurtenances, and to have, receive, and take the rents, iſſues, and profits thereof, and of every part thereof, without any manner of lett, ſuit, trouble, denial, interruption, eviction, diſturbance, claim, or demand whatſoever, of, by, or through the ſaid —— duke of ——, and ——, or either of them, or of, by, or through him the ſaid ——, or any other perſon or perſons whomſoever, lawfully claiming or to claim, by, from, or under, or in truſt for him or them, or any or either of them, or by, from, or under any of the anceſtors of the ſaid ——, or by, from, under, through, or with their, or any or either of their acts, deeds, default, conſent, privity or procurement, and that free and clear, and freely and clearly, and abſolutely acquitted, exonerated, and diſcharged or otherwiſe, by the ſaid —— his heirs, executors, or adminiſtrators, well and ſufficiently defended, ſaved harmleſs, and kept indemnified, of, from, and againſt all and all manner of former and other gifts, grants, bargains, ſales, leaſes, rents, (ſave and except an annual rent or yearly out going of —, if any iſſuing, out of a part of the ſame premiſes, and payable at the poſt office in *London*; and alſo ſave and except the ſum of ——, payable yearly to the biſhop of ——— for the time being, alſo iſſuing out of part of the ſame premiſes, and alſo ſave and except one leaſe bearing date the —— day of ——, granted of the ſaid meſſuages, farms and tenements, called ——— farm, to ———, lately deceaſed,

Free from incumbrance.

for the term of 21 years, from —— at the yearly rent of ——), mortgages, jointures, dowers, ſettlements, uſes, truſts, wills, entails, ſtatutes, judgments, extents, executions, titles, troubles, burthens, and incumbrances whatſoever, (ſave and except the reſidue of his ſeveral terms of —— years, and —— years, created of the ſaid manors and hereditaments, (with divers other premiſes,) but which ſaid term or either of them, do not relate or concern the rectory and advowſon of —— aforeſaid, being purchaſed by the ſaid ——, ſubſequent to the creation of the ſame terms reſpectively, by one indenture of releaſe of three parts, bearing date on or about the —— day of ——, which was in the year of our Lord —, made previous to, and in proſpect of a marriage, (which was ſoon after ſolemnized) between the ſaid — and —, then —— ſpinſter,) and which ſaid reſpective terms of —— years, and —— years, as to the reſidue thereof now unexpired, and ſo far as the ſame reſpectively relate to, or compriſed the ſaid manors, hereditaments and premiſes hereinbefore mentioned, and hereby limited, and appointed, and granted, and releaſed, or intended ſo to be, or any part, parcel or member thereof, in and by one indenture of five parts bearing even date with theſe preſents, are now at the time of the ſealing and delivery of theſe preſents, or are ſo meant or intended to be reſpectively aſſigned and conveyed unto ——— of ———, eſquire, his executors, adminiſtrators, and aſſigns, in truſt for the ſaid ——— earl of ——, his heirs and aſſigns, to attend the inheritance of the ſame manor, hereditaments and premiſes, and PURCHASER.

PURCHASER. of, from, and againſt all other titles, troubles, charges, burthens and incumbrances whatſoever, had, made, done, committed, occaſioned, or ſuffered by them the ſaid —— duke of ——— and ——, or either of them, or by the ſaid ——, or any other perſon or perſons claiming or to claim, by, from, through, or under them, or any or either of them, or any of the anceſtors of the ſaid ——— or by, from, or under the ſaid hereinbefore in part recited indentures of releaſe and ſettlement of the —— day of ——, in any of the uſes, truſts, limitations or agreements therein contained. AND moreover, that he the ſaid —— and his heirs, and alſo the ſaid —— duke of —— and ——, and all and every other perſon and perſons whomſoever, having, or lawfully claiming, or who ſhall, or may have, or lawfully claim any eſtate, right, title, uſe, truſt, or intereſt, of, in, to, or out of the manor or lordſhip, rectory, and advowſon, meſſuages, farms, lands, tithes, tenements, and hereditaments hereinbefore mentioned, to be hereby limited and appointed, and granted and releaſed, or intended ſo to be, or of, in, to, or out, any part or parcel thereof, by, from, or under him or them, or any or either of them, or by, from, through, or under any of the anceſtors of the ſaid *W. I.* or by, from, under, or by virtue of the ſaid hereinbefore in part recited indenture of releaſe and ſettlement of the —— day of ——, or the uſes, truſts, powers, limitations, and agreements therein contained, ſhall and will from time to time, and at all times hereafter, on the reaſonable requeſt, and at the proper coſts and charges in the law, of the ſaid —— earl

Further aſſurance.

of ——, his heirs or aſſigns, well and truly make, do, acknowledge, levy, ſuffer, and execute, or cauſe and procure to be made, done, acknowledged, levied, ſuffered, and executed, all and every ſuch further and other lawful and reaſonable act and acts, thing and things, deeds, demiſes, conveyances, and aſſurances, in the law, whatſoever, be the ſame by fines, feoffments, common recoveries, or otherwiſe howſoever, for the further, better, more perfect, and abſolute limiting and appointing, granting, releaſing, and aſſuring the ſame manor or lordſhip, rectory, advowſon, hereditaments, and all and ſingular other the premiſes hereinbefore mentioned to be hereby limited and appointed, granted, and releaſed, and every part and parcel thereof, with their and every of their appurtenances, unto and to the uſe of the ſaid ——— earl of ———, his heirs and aſſigns, forever, in manner aforeſaid, as by the ſaid —— earl of ——, his heirs or aſſigns, or his or their counſel, ſhall be reaſonably deviſed, or adviſed and required, ſo as in ſuch further aſſurances, or any of them, to be had, made, done, and executed, by the ſaid —— duke of ——, and ——, or the ſurvivor of them, or the heirs of ſuch ſurvivor, do not contain any further or other warranty or covenant, than for or againſt the perſon or perſons making or executing the ſame, and his or their reſpective heirs, and againſt the acts, deeds, and incumbrances, made, done, and ſuffered, by him or them reſpectively. And laſtly, that he the ſaid ——, his heirs and aſſigns, and the perſon or perſons who, under or by virtue of the uſes and limitations con-

PURCHASER.

Covenant for production of title deeds.

PURCHASER.

tained in the ſaid hereinbefore in part recited indenture of releaſe and ſettlement of the — day of ——, ſhall be in the poſſeſſion of the manors, lands, and hereditaments, therein compriſed, or ſome or one of them, ſhall and will, from time to time, and at all times hereafter, on the reaſonable notice and requeſt, and at the expence of the ſaid — earl of ——, his heirs and aſſigns, produce and ſhow forth, or cauſe and procure to be produced and ſhown forth, in any court of law or equity, or at any acting commiſſion for the examination of witneſſes, or to the counſel, attornies, ſolicitors, or agents, of the ſaid —— earl of ——, his heirs and aſſigns, and alſo ſhall and will give, or permit and ſuffer the ſaid — earl of ——, his heirs and aſſigns, at his or their own expence, *(a)* or his or their attornies or agents, to make and to take true and atteſted copies of all and ſingular the title deeds and writings mentioned, expreſſed, and deſcribed, in the ſchedule here under written, and which do concern or relate to the ſaid manor or lordſhip, meſſuages, farms, lands, tenements, and hereditaments, hereinbefore mentioned, or intended to be hereby limited, and appointed, and granted, and releaſed, jointly with other hereditaments of greater value, and all other deeds, writings, receipts, and mementos, whatſoever, relating to, touching, or concerning the ſame manor, or lordſhip and hereditaments, or any part thereof, jointly with any other premiſes, and which now are, or at any time hereafter ſhall be in the cuſtody, poſſeſſion, or power, of the ſaid ——, his heirs or aſſigns, or which he or they can, ſhall, or

(a) It is uſual for the ſeller of an eſtate to be at the expence of making out copies of title deeds, that cannot be delivered up at the time of the contract for ſale being carried into execution.

may come at or by, without ſuit at law, or in equity, (accidents by fire, and other unavoidable caſualties only excepted.) In witneſs, &c. PURCHASER.

Operative Part of an Appointment, &c. of real Eſtates, ſold by Truſtees under a Power of Sale and Exchange, contained in a Marriage Settlement.

AND whereas the ſaid *H. W. D. C.* of —— and *I. P. I.* in purſuance and execution of the powers and authorities contained in the ſaid hereinbefore in part recited indenture of releaſe of —— day of —— and with the privity, conſent, and approbation of the ſaid *J. W.* teſtified by his being a party to, and ſealing and delivering theſe preſents, cauſed the ſaid manor of —— and the meſſuages, &c. hereinbefore and hereinafter particularly mentioned and deſcribed, and intended ſo to be hereby granted and releaſed, to be put up to ſale by public auction, on the —— day of ——, now laſt paſt, at which ſale the ſaid *B. H.* was declared the higheſt and beſt bidder for, and the purchaſer of the ſaid manor, hereditaments, and premiſes, at or for the price or ſum of ——. AND whereas it hath been agreed, by and between all and every the ſaid parties to theſe preſents, that the ſaid ſum of ——, the purchaſe or conſideration money aforeſaid, ſhall be paid unto them the ſaid *H. W. D. C.* of —, and *I. P. I.* as truſtees as aforeſaid, to be applied by them upon the truſts in the ſaid in part recited indenture of the —— day of —— declared of and concerning the truſt monies to ariſe by ſale

Recital of ſale.

Recital of agreement to pay the purchaſe money of, &c. to the truſtees

PURCHASER. of the ſeveral hereditaments and premiſes thereby limited, ſettled and conveyed in manner hereinafter mentioned; and that they the ſaid *H. W. D. C.* of ——— and *I. P. I.* ſhall aſſign the ſaid ſeveral moieties of the ſaid manor &c. hereinbefore mentioned and deſcribed, and hereby granted, releaſed and conveyed, or intended ſo to be now veſted in them reſpectively, for the reſidue of the ſaid term of —— years, and —— years, unto a truſtee of the ſaid *B. H.*'s nomination in truſt for him the ſaid *B. H.* his heirs and aſſigns, and to attend the inheritance of the ſame premiſes, in manner hereinafter mentioned. Now this indenture witneſſeth, that in purſuance and performance of the ſaid recited agreement, and for and in conſideration of the ſum of —— of lawful money of *Great Britain*, (the purchaſe or conſideration money agreed to be given by the ſaid *B. H.* for the ſaid manor &c. hereinafter particularly mentioned and deſcribed, and intended to be hereby granted and releaſed) to the ſaid *H. W. D. C.* of —, and *I. P. I.* in hand, at or before the ſealing and delivery of theſe preſents, as truſtees as aforeſaid, well and truly paid by the ſaid *B. H.* (at the requeſt, and by the direction, and with the privity, conſent and approbation of the ſaid *J. W.* teſtified by his being a party to, and ſealing, and delivering theſe preſents,) to be by them the ſaid *H. W. D. C.* of —, and *I. P. I.* applied upon the truſts in the ſaid in part recited indenture of releaſe, of the — declared of, and concerning the monies to ariſe by ſale of the ſeveral hereditaments and premiſes thereby limited, ſettled, and conveyed, (which ſaid ſum

Now this indenture witneſſeth, that

In conſideration of the purchaſe money paid to the truſtees,

of —, is the ſame ſum of money mentioned to be the conſideration of one indenture of bargain and ſale of three parts, bearing even date herewith, and made between the ſaid *H. W. D. C.* of —, and *I. P. I.* of the firſt part, the ſaid *J. W.* of the ſecond part, and the ſaid *B. H.* of the third part, and intended to be enrolled in the High court of Chancery, the receipt and payment of which ſaid ſum of —, they the ſaid *H. W. D. C.* of —, and *I. P. I.* and alſo the ſaid *J. W.* do hereby reſpectively acknowledge, and that the ſame is the full conſideration money for the abſolute purchaſe of the ſaid manor, &c. hereinafter particularly mentioned and deſcribed, or intended to be hereby granted and releaſed, and thereof and therefrom, and of and from every part and parcel thereof, do, and each and every of them doth acquit, releaſe, and diſcharge the ſaid *B. H.* his, heirs, executors, and adminiſtrators, and every of them, for ever by theſe preſents, they the ſaid *H. W. D. C.* of ---, and *I. P. I.* (in purſuance and exerciſe of the powers and authorities given and granted to the ſaid *T. J.* and *W. H.* their heirs and aſſigns, in and by the ſaid in part recited indenture of releaſe of the --- day of ---, and now veſted in them the ſaid *H. W. D. C.* of ---, and *I. P. I.* under and by virtue of the ſaid in part recited indenture of leaſe and releaſe, of the --- and — days of ——, and of all and every other power or powers, authority and authorities, whatſoever, to them given, in them veſted, or in any wiſe enabling them in that behalf, and in exerciſe, and execution thereof, and with the conſent and approbation of the ſaid *J. W.* teſtified by his being

PURCHASER.

The truſtees revoke former uſes.

PURCHASER. a party to, and ſealing and delivering theſe preſents, have revoked, determined, and made void, and by this preſent deed or writing, by them and each of them ſealed and delivered, in the preſence of two credible perſons, whoſe names are hereupon indorſed as witneſſes, atteſting the execution hereof, do revoke, determine, and make void, all and every the uſes, truſts, eſtates, powers, proviſos, and limitations, in and by the ſaid hereinbefore in part recited indenture of releaſe of the — day of ——, limited, created, declared, and contained, of and concerning the manor, &c. hereinafter granted and releaſed, or intended ſo to be. And the ſaid *H. W. D. C.* of —, and *I. P. I.* in further purſuance and exerciſe of the powers and authorities given and granted to the ſaid *T. J.* and *W. H.* in and by the ſaid in part recited indenture of releaſe of the — day of ——, and now veſted in them the ſaid *H. W. C. D.* of ——, and *I. P. I.* under and by virtue of the ſaid in part recited indentures of leaſe and releaſe of the — — and — days of —, and of all and every other power and powers, authority and authorities, whatſoever to them given, or in them veſted, or in any wiſe enabling them in that behalf, and in exerciſe and execution thereof, and with the like conſent and approbation of the ſaid *J. W.* as aforeſaid, teſtified as aforeſaid, have limited and appointed, and by this preſent deed or writing by them ſealed and delivered as aforeſaid, and to be atteſted as aforeſaid, do limit and appoint the ſame manor, &c. whereof the uſes by the ſaid in part recited indenture of the — day of —, limited of, and con-

And limit and appoint to the purchaſer in fee.

cerning the ſame are revoked as aforeſaid, unto, and to the only proper uſe of the ſaid *B. H.* his heirs and aſſigns, for ever, freed, exonerated, acquitted, and diſcharged, of and from all and every the ſaid uſes, truſts, eſtates, powers, proviſos, and limitations, in and by the ſaid in part recited indenture of the — day of —, limited and declared, of and concerning the ſame. AND this indenture further witneſſeth, that in further purſuance and performance of the ſaid recited agreement, and for the conſiderations aforeſaid, and alſo for and in conſideration of the ſum of —, a piece of like lawful money of *Great Britain*, to the ſaid *H. W. D. C.* of —, *I. P. I.* and *J. W.* in hand, at or before the ſealing and delivering of theſe preſents, well and truly paid by the ſaid *B. H.* the receipts whereof are hereby reſpectively acknowledged, they the ſaid *H. W. D. C.* of —, and *I. P. I.* in further purſuance and exerciſe of the powers and authorities given and granted to the ſaid *T. J.* and *W. H.* in and by the ſaid in part recited indenture of releaſe, of the — day of —, and now veſted in them the ſaid *H. W. D. C.* of —, and *I. P. I.* under and by virtue of ſaid in part recited indentures of leaſe and releaſe of the — and — days of —, and of all and every other power and powers, authority and authorities, to them given, in them veſted, or in any wiſe enabling them in that behalf, or in exerciſe and execution thereof, and at the like requeſt, and by the like direction, and with the like privity, conſent, and approbation of the ſaid *J. W.* teſtified as aforeſaid, have, and each of them hath bargained, ſold, aliened, and releaſed, and by theſe pre-

PURCHASER.

Further witneſs tha truſtees &c. releaſe and confirm.

MORTGAGEE

ſents, do, and each of them, according to their reſpective intereſt and eſtates in the premiſes, and ſo far as they reſpectively can, and lawfully may, doth bargain, ſell, alien, and releaſe, and the ſaid *J. W.* hath granted, bargained, ſold, aliened, releaſed, ratified, and confirmed, and by theſe preſents, doth grant, bargain, ſell, alien, releaſe, ratify, and confirm unto the ſaid *B. H.* (in his actual poſſeſſion, &c. and to his heirs and aſſigns, all that &c. &c. To have and to hold the ſaid manor, &c. and all ſingular other the premiſes hereinbefore mentioned, to be thereby granted and releaſed, or intended ſo to be, with their and every of their appurtenances unto the ſaid *B. H.* his heirs and aſſigns, to the only uſe and behoof of the ſaid *B. H.* and his aſſigns for ever.

Habendum, to the purchaſer in fee.

Appointment and further Charge by a Feme Covert, with Directions to Truſtees to ſtand poſſeſſed of certain Truſt Monies in Truſt for a Mortgagee thereof, for ſecuring a Sum advanced.

This indenture made the — day of —, Between *S. N.* of, &c. eſq. and *C. N.* his wife, of the one part, and *A. D.* of, &c. of the other part. WHEREAS by indenture tripartite, bearing date the — day of ——, in the year ——, made between the ſaid *S. N.* of the firſt part, the ſaid *C. N.* his wife, (then *C. Q.* ſpinſter) of the ſecond part, and *O. G.* eſq. and *D. M.* eſq. of the third part, reciting as therein is recited, and that in conſideration of a marriage then intended, and which

Recital of marriage ſettlement.

ſoon after took effect, between the ſaid *S. N.* and *C. Q.* now *C. N.* his wife, and for the other conſiderations therein mentioned, the ſaid *C. Q.* now *C. N.* with the conſent and approbation of the ſaid *S. N.* did aſſign to the ſaid *O. G.* and *D. M.* all that capital ſum of — 3 per cent. conſolidated bank annuities, then ſtanding in her name, and all the intereſt and dividends thereof, from thenceforth to become due, and all that her moiety or half part of the capital ſum of — 3 per cent. conſolidated bank annuities, then ſtanding in the names of the right hon. *Y.* earl of ——, ſince deceaſed, and *G. H.* lord *H.* in truſt as therein is mentioned, and all and every ſuch ſum and ſums of money which ſhe the ſaid *C. Q.* now *C. N.* was then or ſhould thereafter be entitled to on account of her ſhare and proportion of the reſidue of the perſonal eſtate and effects of the late *G. Q.* eſq. her father, deceaſed, to hold the ſame to the ſaid *O. G.* and *D. M.* their executors, adminiſtrators and aſſigns, upon the following truſts, (that is to ſay) in truſt for the ſaid *C. Q.* now *C. N.* till the ſaid intended marriage ſhould be had, and from and after the ſolemnizing thereof, upon truſt that they the ſaid truſtees and the ſurvivor of them, his executors, adminiſtrators, and aſſigns, ſhould with and out of the ſaid ſeveral premiſes thereby aſſigned, pay the ſum of — to the ſaid *S. N.* or his aſſigns, for his or their own uſe and benefit, and from and after payment and diſcharge thereof, that they the ſaid truſtees and the ſurvivor of them, his executors, adminiſtrators, and aſſigns, ſhould ſtand poſſeſſed of and intereſted in all the ſurplus or reſidue of

MORTGAGE

Authorizing the preſent appointment.

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the ſaid ſeveral premiſes thereby aſſigned, which ſhould remain after payment of the ſaid ſum of —, and of and in the intereſts, dividends, and annual produce thereof, and every part thereof reſpectively to become due, from the ſolemnizing of the ſaid then intended marriage, in truſt for ſuch perſon and perſons, and for ſuch rights and intereſts, and for ſuch intents and purpoſes, and charged and chargeable with the payment of ſuch groſs and yearly ſum and ſums of money, as the ſaid *C. Q.* now *C. N.* whether covert or ſole, and notwithſtanding her being under coverture by any deed or deeds, writing or writings, with or without power of revocation to be by her ſealed and delivered in the preſence of, and atteſted by, two or more credible witneſſes or by her laſt will and teſtament in writing, or any codicil or codicils, or any writing or writings, purporting to be her laſt will and teſtament, or codicil or codicils, to be by her ſigned in the preſence of, and atteſted by the like number of witneſſes, ſhould direct, limit, or appoint. AND whereas by indenture bearing date the — day of —, in the year —, made between the ſaid *S. N.* and *C. N.* his wife, of the one part, and the ſaid *A. D.* of the other part, reciting to the effect hereinbefore recited, and that the ſaid *S. N.* and *C. N.* his wife, having occaſion for £—, they, and particularly the ſaid *C. N.* had applied to the ſaid *A. D.* to advance and lend the ſame on the ſecurity thereinafter contained and hereinafter mentioned, and that the ſaid *A. D.* had agreed ſo to do, in conſideration of the ſum of — advanced and paid by the ſaid *A. D.* to the ſaid *C. N.* ſhe

Recital of a former appointment of the premiſes to the preſent mortgagee for ſecuring a ſum then advanced.

the ſaid *C. N.* with the conſent and approbation of the ſaid *S. N.* as therein is mentioned, by force and virtue of the ſaid power or authority to her limited by the ſaid recited indenture of ſettlement, and of all other powers and authorities, enabling her in that behalf, and in exerciſe and execution thereof, did by that deed or writing, by her ſealed and delivered in the preſence of, and atteſted by, two credible witneſſes, direct, limit, and appoint, that the ſaid *Q. G.* and *D. M.* and the ſurvivor of them, and the executors, adminiſtrators, and aſſigns, of ſuch ſurvivor ſhould ſtand poſſeſſed of and intereſted in all the ſurplus or reſidue of the ſaid ſeveral premiſes, aſſigned by the ſaid recited indenture of ſettlement as aforeſaid, which ſhould remain after payment of the ſum of — and the intereſt, dividends, and annual produce thereof, to the ſaid *S. N.* or his aſſigns as aforeſaid, and of and in the intereſt, dividends, and annual produce of the ſame, from thenceforth to become payable, and every part thereof reſpectively in truſt, for the ſaid *A. D.* his executors and aſſigns, ſubject to a proviſo or condition therein contained for redemption thereof, on payment by the ſaid *S. N.* and *C. N.* or either of them, or the executors or adminiſtrators of them or either of them, unto the ſaid *A. D.* his executors, adminiſtrators, or aſſigns, of the ſaid ſum of — and intereſt for the ſame, after the rate of 5*l.* for 100*l.* by the year, at the time for that purpoſe mentioned and ſince paſt. AND whereas the ſaid ſum of — ſtill remains due and owing on the aforeſaid ſecurity, and the ſaid *S. N.* and *C. N.* having occaſion for the further ſum of

MORTGAGEE

The ſum then lent not yet repaid.

MORTGAGEE — on the ſecurity of the ſaid hereinbefore mentioned premiſes, have applied to the ſaid *A. D.* to advance and lend the ſame, which he the ſaid *A. D.* hath agreed to do. Now this indenture witneſſeth, that for and in conſideration of the ſum of —— of lawful money of *Great Britain*, to the ſaid *S. N.* and *C. N.* in hand, well and truly paid by the ſaid *A. D.* at or before the ſealing and delivering of theſe preſents, the receipt whereof they the ſaid *S. N.* and *C. N.* do, and each of them doth hereby acknowledge, and thereof, and of and from every part thereof, do, and each of them doth acquit, releaſe, and for ever diſcharge the ſaid *A. D.* his heirs, executors, adminiſtrators, and aſſigns, by theſe preſents, ſhe the ſaid *C. N.* by force and virtue of the ſaid power or authority ſo to her given, limited, or reſerved as aforeſaid, and of all and every other power and powers, authority and authorities to her belonging, in her veſted, or in any wiſe enabling her in this behalf, and in exerciſe and execution thereof, doth by this deed or writing by her ſealed and delivered in the preſence of, and atteſted by, two credible perſons, whoſe names are intended to be hereunder written as witneſſes to the execution of theſe preſents, by them the ſaid *S. N.* and *C. N.* direct, limit, and appoint that the ſaid *O. G.* and *D. M.* and the ſurvivor of them, and the executors, adminiſtrators and aſſigns, of ſuch ſurvivor, ſhall ſtand poſſeſſed of and intereſted in all the ſurplus or reſidue of the ſaid ſeveral premiſes, aſſigned by the ſaid recited indenture of ſettlement as aforeſaid, which ſhall remain after payment of the ſaid ſum of —, and the intereſt,

Further ſum wanted.

Indenture witneſſeth that wife appoints and charges the truſt premiſes with the re-payment of a further ſum now borrowed.

dividends, and annual produce thereof to the ſaid *S. N.* or his aſſigns as aforeſaid, and of and in the intereſts, dividends, and annual produce of the ſame from henceforth to become payable, and every part thereof reſpectively, upon truſt, for ſecuring to the ſaid *A. D.* his executors, adminiſtrators and aſſigns, the payment as well of the ſaid ſum of — now advanced and lent, and the intereſt thereof, as of the ſaid ſum of — heretofore advanced and lent by the ſaid *A. D.* as aforeſaid, and the intereſt of the ſame, and the ſaid *S. N.* for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree, to and with the ſaid *A. D.* his executors, adminiſtrators and aſſigns, by theſe preſents, that the ſaid *S. N.* and the ſaid *C. N.* or one of them, or his heirs, executors, or adminiſtrators of them, ſhall and will well and truly pay, or cauſe to be paid, to the ſaid *A. D.* his executors, adminiſtrators, or aſſigns, at the ſouth gate of the *Royal Exchange*, in the city of *London*, (*a*) on the — day of —, in the year — (*b*) the ſaid ſum of —, ſo advanced and lent by the ſaid *A. D.* together with ſuch intereſt for the ſame as aforeſaid, without making any deduction or abatement thereout, or out of any part thereof reſpectively, on any account or pretence whatſoever.

MORTGAGEE

Covenant by the huſband for repayment of the money now borrowed.

(*a*) See Elem. Conv. Bk. II. Par. III. Sec. V.
(*b*) See ante, Vol. I. p. 3. 50.

CREDITORS.

Appointment, Releaſe, and Aſſignment by a Man and his Wife, to Truſtees in Truſt, to ſell (a) or mortgage for the Benefit of Creditors.

This indenture made, &c. between *F. R.* of, &c. merchant, and *A. R.* his wife, of the one part, and *D. E.* of, &c. eſq. *G. O.* of, &c. merchant, and *A. Y.* of, &c. of the other part. WHEREAS by indenture of leaſe and releaſe, bearing date reſpectively the —— day of ——, the releaſe being tripartite, and made, or expreſſed to be made between the ſaid *F. R.* of the firſt part, *V. Q.* of, &c. gentleman, and *F. R.* the elder, then of, &c. but now deceaſed, of the ſecond part, and the ſaid *A. R.* by her name and deſcription of *A. C.* of, &c. ſpinſter, one of the daughters and co-heireſſes of *G. C.* late of, &c. clerk, deceaſed, of the third part, and by a fine in the ſame indenture covenanted and agreed to be levied by the ſaid *F. R.* party hereto, and afterwards duly levied accordingly, in conſideration of a marriage then intended, and which ſoon after took effect, and was ſolemnized between the ſaid *F. R.* and *A. C.* and for the conſiderations in the ſame indenture mentioned, the ſaid *F. R.* party hereto, did grant, convey, and aſſure, unto the ſaid *F. R.* the elder, *V. Q.* and their heirs, all that, &c. (ſeveral parcels of lands particularly deſcribed,) and the reverſion, &c. of the premiſes aforeſaid, to hold to the ſaid *V. Q.* and *F. R.* the elder, their heirs and aſſigns, to the uſe of the ſaid *F. R.* party hereto, and his heirs, until the ſaid intended marriage ſhould be had

Recital of indenture of leaſe and releaſe.

And of a fine levied in conſideration of a marriage, &c.

(a) See 2 *Ch. Rep.* 115. 1 *Vern.* 303. 487.

and ſolemnized, and from and after the ſolemnization thereof, to the uſe of the ſaid *F. R.* party hereto, for the term of his natural life, without impeachment of waſte, and immediately from and after his deceaſe, then to ſuch uſes, intents, and purpoſes, as the ſaid *F. R.* party hereto, and the ſaid *A.* his wife, by any deed or deeds, writing or writings, to be duly executed, in the preſence of two or more credible witneſſes, ſhould direct or appoint, of or concerning the ſame, and for default of ſuch direction or appointment, then to the uſe of the ſaid *A. R.* and her aſſigns, for and during the term of her natural life for her jointure, and in bar of her dower, and from and after her deceaſe, then to the uſe of all and every the child or children of the body of the ſaid *F. R.* party hereto, on the body of the ſaid *A. R.* lawfully to be begotten, if more than one, to take as tenants in common, and of the heirs of the body and bodies of every ſuch child and children lawfully iſſuing, and if any ſuch child or children ſhould die without iſſue of his or their body or bodies, then as to the part or ſhares of him or them ſo dying without iſſue, to the uſe of the ſurviving child or children, equally to be divided, and to take as tenants in common, and of the ſeveral heirs of the ſeveral and reſpective bodies of ſuch ſurviving child or children, and if there ſhould be only one ſuch child, or all the reſt of the children ſhould die without iſſue of his, her, or their bodies, then to the uſe of ſuch only child and the heirs of his or her body, and for default of ſuch iſſue, to the uſe

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whereby premiſes ſettled to the uſe of F. R. for life, remainder to ſuch uſes as he and his wife ſhould appoint.

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of the ſaid *F. R.* party hereto, his heirs and aſſigns for ever. AND whereas it has been propoſed and agreed, by and between the ſaid *F. R.* and *A.* his wife, that the ſaid meſſuages and premiſſes at ——, ſhall be conveyed and aſſured to the ſaid *D. E. G. O.* and *A. Y.* and their heirs, to be ſold, and that the money by ſuch ſale ariſing ſhall be applied towards the payment of the debts of the ſaid *F. R.* and for other purpoſes hereinafter mentioned. And that in conſideration thereof, the meſſuage and granaries of the ſaid *F. R.* in —— aforeſaid, and hereinafter mentioned, to be hereby granted and releaſed, ſhall be diſencumbered of the mortgage debt of £——, now charged thereupon, and the intereſt attending the ſame, and when ſo diſencumbered ſhall be ſettled and aſſured upon the truſts, and in manner hereinafter declared concerning the ſame. Now this indenture witneſſeth, that in purſuance of the ſaid agreement, they the ſaid *F. R.* party hereto, and *A. R.* his wife, by virtue and purſuance of the power and authority given, or reſerved to, or veſted in them, in and by the ſaid indenture of releaſe of the —— day of ——, and by force and virtue of every other power and authority in anywiſe veſted in them, or to them, or either of them belonging, have and each of them hath directed, limited, and appointed, and by this preſent deed or writing, under the hands and ſeals of them the ſaid *F. R.* party hereto, and *A. R.* his wife, ſealed and delivered in the preſence of two or more credible witneſſes, whoſe names are intended to be hereupon

And that it has been agreed that the ſaid premiſes ſhall be ſold,

and that other eſtates ſhall be ſettled in lieu thereof.

Appointment by virtue of the ſaid power in the ſettlement.

indorſed as witneſſes atteſting the execution thereof, (*a*) do and each of them doth direct, limit, and appoint, that all the meſſuages, cottages, lands, cloſes, parcels of ground, hereditaments, and premiſes in —— aforeſaid, with their and every of their rights, members, and appurtenances, and the reverſion and reverſions, inheritance and fee-ſimple thereof, expectant upon, and from and after the deceaſe of the ſaid *F. R.* party hereto, ſhall be and remain to the uſe of the ſaid *D. E. G. O.* and *A. Y.* their heirs and aſſigns for ever, upon the truſts hereinafter mentioned, expreſſed, and declared of and concerning the ſame. AND this indenture further witneſſeth, that in further purſuance of the ſaid agreement and in conſideration of 10s. of, &c. to the ſaid *F. R.* party hereto, and *A.* his wife, in hand paid by the ſaid *D. E. G. O.* and *A. Y.* at or before, &c. the receipt whereof is hereby acknowledged, they the ſaid *F. R.* and *A.* his wife, have and each of them have granted, bargained, ſold, releaſed, and confirmed, and by theſe preſents do and each of them doth &c. unto the ſaid *D. E. G. O.* and *A. Y.* and their heirs and aſſigns, all and every of the meſſuages, cottages, lands, cloſes, parcels of ground, hereditaments and premiſes hereinbefore limited and appointed, or mentioned or intended to be limited and appointed, with their and every of their rights, members and appurtenances, and alſo all that annuity or yearly rent charge of — yearly iſſuing, fromand out of all that meſſuage or

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Releaſe of ſaid premiſes (*b*).

(*a*) See ante. p. 6. (*b*) See ante. p. 7.

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tenement, ſituate lying and being in —— aforeſaid, heretofore in the tenure or occupation of *J. K.* or his aſſigns, and from, and out of all ſingular, the houſes, out-houſes, &c. to the ſame meſſuages or tenement belonging, or in any wiſe appertaining, and payable at the feaſts of &c. by equal portions, and all other meſſuages, lands and hereditaments of the ſaid *F. R.* party hereto, in —— aforeſaid, and the reverſion of all and ſingular the ſaid premiſes, all which ſaid meſſuages, cottages, lands, cloſes, parcels of ground, rent, hereditaments, and premiſes hereinbefore mentioned to be hereby granted and releaſed, are now in the actual poſſeſſion of the ſaid *D. E. G. O.* and *A. Y.* by virtue of &c. and all the eſtates &c. of the ſaid *F. R.* and *A.* his wife, and each of them, of, in, to, or out of the ſaid premiſes. To have and to hold the ſaid meſſuages, cottages, lands, cloſes, parcels of ground, rent, hereditaments, and premiſes hereinbefore mentioned, to be hereby limited, appointed, granted, and releaſed reſpectively, with their and every of their appurtenances unto the ſaid *D. E. G. O.* and *A. Y.* their heirs and aſſigns, to the uſe of the ſaid *D. E. G. O.* and *A. Y.* their heirs and aſſigns, for ever. [Covenant by *F. R.* that he and his wife, will, before the end of *Michaelmas* term, levy fine of the ſaid meſſuages, &c. rents and premiſes hereinbefore mentioned, to be hereby limited, appointed, granted, and releaſed reſpectively.] And it is hereby declared and agreed, by and between the ſaid parties to theſe preſents, and that as well the grant and releaſe, and the limitations and appointments hereinbefore made, as the ſaid fine ſo agreed

To hold the ſame

unto the ſaid truſtees, to the uſe of them, their heirs, and aſſigns, for ever.

Declaration of the uſes of the ſaid releaſe,

to be levied and had as aforeſaid, and all and every other fine and fines &c. ſhall be and enure, and is and are hereby declared and agreed, to be and enure to the uſe of the ſaid *D. E. G. O.* and *A. Y.* their heirs and aſſigns for ever, upon the truſts, and under and ſubject to the declarations and agreements hereinafter mentioned and expreſſed, and declared, of and concerning the ſame, (that is to ſay) upon truſt, that they the ſaid *D. E. G. O.* and *A. Y.* and the ſurvivors and ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor, do and ſhall with all convenient ſpeed, ſell and diſpoſe of the inheritance in fee ſimple, of and in the ſame meſſuages, cottages, lands cloſes, parcels of ground, rent, hereditaments, and premiſes, either entirely or in parcels, unto any perſon or perſons that ſhall be willing to purchaſe the ſame, or any part or parcel thereof, reſpectively, for the moſt money, and beſt price and prices that can be reaſonably had or gotten for the ſame. AND alſo upon truſt in the mean time, and until the ſame premiſes ſhall be ſold and diſpoſed of as aforeſaid, that they the ſaid *D. E. G. O.* and *A. Y.* and the ſurvivors and ſurvivor of them, ſhall and do, if he or they ſhall think proper, demiſe or leaſe the ſame meſſuages, lands, rents, hereditaments and premiſes unto or to the uſe of any perſon or perſons, for any term or number of years by way of mortgage, for ſecuring any ſum or ſums of money that ſuch perſon or perſons ſhall be willing to advance and lend upon the ſame, with ſuch intereſt as ſhall be agreed on, ſo as nevertheleſs every ſuch demiſe or leaſe, by way of mortgage, be made redeemable, upon payment of ſuch ſum and

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upon truſt, to ſell the ſame,

and upon truſt in the mean time, and until the ſame ſhall be ſold to demiſe and leaſe the ſame by way of mortgage for any ſum that can be gotten thereupon;

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and upon farther truſt to apply the money, &c. as hereinafter mentioned.

ſums of money as ſhall be expreſſed to be borrowed and taken up, with ſuch intereſt for the ſame as aforeſaid. AND upon further truſt, that the ſame truſtees, and the ſurvivors and ſurvivor of them, and the heirs, executors, adminiſtrators and aſſigns, of ſuch ſurvivor, do and ſhall apply and diſpoſe of the money to ariſe by every ſuch ſale, and to be borrowed and taken at intereſt, upon mortgage, and the rents and profits of the ſame premiſes, in the mean time, until ſuch ſale, in manner, and for the purpoſes hereinafter declared, concerning the ſame. AND this indenture witneſſeth, that in further purſuance of the ſaid propoſal and agreement, and for the making a further proviſion for the payment of the debts of the ſaid *F. R.* party hereto, and in conſideration of —— of &c. to the ſaid *F. R.* in hand, paid by the ſaid *D. E. G. O.* and *A. Y.* at or before the ſealing and delivering of theſe preſents, the receipt whereof &c. he the ſame *F. R.* hath granted, bargained, ſold, releaſed, confirmed, and by theſe preſents, doth &c. unto the ſaid *D. E. G. O.* and *A. Y.* their heirs and aſſigns, all that meſſuages burgage houſe or tenement, ſituate, lying, and being in the eaſt row, within the borough of —, aforeſaid, &c. now in his poſſeſſion &c. and the reverſion, &c. and all the eſtate, &c. of the ſaid *F. R.* party hereto, of, in, to, or out of the ſame, To have and to hold the ſaid meſſuage, burgage, granaries, warehouſes, and all and ſingular other the premiſes laſt hereinbefore mentioned, to be hereby granted and releaſed with their and every of their appurtenances unto the ſaid *D. E. G. O.* and *A. Y.* their heirs

And this indenture further witneſſeth, that in further purſuance of the ſaid propoſal, and for making further proviſion for the payment of the ſaid debts, and in conſideration of &c.

he the ſaid R F. grants, &c. all that burgage, meſſuage, &c.

To hold the ſaid burgage meſſuage laſt mentioned,

unto the truſtees,

and assigns, to the use of the said *D. E. G. O.* and *A. Y.* their heirs and assigns, for ever, upon the trusts hereinafter mentioned, (that is to say) upon trust that the said *D. E. G. O.* and *A. Y.* or the survivors or survivor of them, or the heirs or assigns of such survivor, do and shall by mortgage of the same premises, by and out of the rents and profits thereof, raise and levy such sum and sums of money, not exceeding in the whole sum of—— as they the same trustees, or the survivor or survivors of them, or the heirs or assigns of such survivor shall think requisite or expedient for the purposes hereinafter mentioned, and do and shall apply and dispose of the money so to be raised accordingly; and subject to the said trust, the said last mentioned messuages and premises shall be upon the trusts hereinafter expressed concerning the same. And this indenture also witnesseth, that for the making a further and better provision for the payment of the debts of the said *F. R.* party hereto, the said *F. R.* hath bargained, sold, and assigned, and by these presents doth &c. unto the said *D. E. G. O.* and *A. Y.* their executors administrators, and assigns the two third parts, and every other part, and share of him the said *F. R.* of and in the said ship lately called the —— but now the —— whereof *D. K.* is master, now out on a voyage from ——— to ——— and ———, and the three fourth parts and every other part and share of the same *F. R.* of and in the ship called ——, whereof *F. V.* is master, now supposed to be on her return from ——— to ——— and also, the two third parts and every other part and share of

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upon the trust hereinafter mentioned, *i. e.* upon trust to raise 1000l. on mortgage thereof, and subject thereto on the trusts hereinafter mentioned

And this indenture also witnesseth, that for making further provision for payment of the said debts, he the said F. R. hath bargained, sold, and assigned, to the said trustees two third parts of and in the several ships.

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said *F. R.* of and in the said ship called the ——, whereof *C. D.* is the master, now supposed to be on her voyage, &c. to ——— and also all such

And all goods therein on account of the said F. R.

flax, hemp, and other goods as are or shall be therein on the account of the said *F. R.* and also all goods and merchandises of the said *F. R.* party hereto, sent out in the said ships, and to be brought in them to ———, and the produce of such goods and merchandises respectively, and also, all sums of money due or to become due for the freight of the said ships, and every other profit arising and to rise, and be produced from the said

And all money insured thereupon, &c.

ships or any of them, and also, all such sums of money insured to the said *F. R.* party hereto upon the said ships respectively, and upon the said freight and profits, premium paid upon making such insurance, and all such sums of money insured to the said *F. R.* upon his said dwelling house, granaries,

And also, all stock in trade.

warehouses in ———, upon his stock in trade herein together, with all the policies and instruments of all the said insurances and all benefit thereof, and also, all the share and interest of the said *F. R.* of and in a weal or lighter now in the

Also a lighter.

river Tease, whereof —— is master, and also the stock in trade of the said *F. R.* consisting of lead, hemp, flax, corn, grain, pease, beans, pork, hams, tar, timber, or any other kind of merchandise whatsoever, except as hereinafter mentioned.

And also all debts.

And also, all debts and sums of money due and owing to the said *F. R.* party hereto, or to which he is entitled either at law or in equity, except as

To have and to hold.

hereafter is mentioned. To have and to hold all and singular the premises herein before mentioned,

and intended to be aſſigned, except as aforeſaid unto the ſaid *D. E. G. O.* and *A. Y.* their executors; adminiſtrators, and aſſigns from henceforth for ever, upon the following truſts that is ſay, In truſt to ſell and diſpoſe of the ſaid ſhips and boats, and the ſhare and intereſt of the ſaid *F. R.* party hereto therein reſpectively; and the ſaid lead, flax, hemp, corn, grain, peaſe, beans, pork, hams, tar, timber, and other merchandiſe, and to recover and get in the ſaid debts, freights, profits and ſums of money hereinbefore mentioned, and intended to be hereby aſſigned; and by and out of the money ariſing by ſuch ſales, and to be recovered and got in as aforeſaid; to pay or allow the maſters and mariners wages due and to become due to them for the ſervice in the ſaid ſhips the ——, the ——, and the ——, and all port charges and other reaſonable expences, diſburſments and demands, on account of or any way relative to the ſaid ſhips. And in truſt, to apply the reſidue of the money ariſing by ſuch ſales, and to be recovered and got in as laſt mentioned, and the money to be raiſed and produced by the ſale and mortgage of the ſaid meſſuages, lands, and hereditaments in —— herein before directed to be ſold, and by the rents and profits thereof until ſuch ſales, and the money to be raiſed by and out of the ſaid meſſuages and premiſes in manner, and for the purpoſes hereinafter mentioned, that is to ſay, In the firſt place, for the paying and diſcharging the coſts charges and expences of preparing and executing thoſe preſents, and alſo, the coſts, charges and

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Unto the ſaid D. E. G. O. and A. Y. their executors and adminiſtrators for ever.

In truſt to ſell and diſpoſe thereof.

And by and out of the monies ariſing therefrom

To pay the wages of the maſter and mariners, &c.

And in truſt to apply the reſidue of the money ariſing by ſuch ſale, &c.

For the purpoſes hereinafter mentioned.

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In the firſt place for defraying the coſts &c. of theſe preſents, &c and afterwards in the payment of mortgages, and then of other ſeparate and joint debts.

expences of the ſaid truſtees for the time being, and their agents in and about the management, execution, and performance of the truſts hereby in them repoſed, and afterwards in the payment of the principal ſum of —— due to *D. C.* merchant, upon mortgage of the meſſuages, granaries, and premiſes in ——, mentioned to be hereby releaſed and the intereſt due and to grow due for the ſame, and afterwards in payment of what ſhall appear to be due from the ſaid *F. R.* party hereto, or his eſtate to meſſrs —— and ——, merchants in ——, and alſo, what ſhall appear to be in like manner due to meſſrs —— and ——, inſurance brokers in ——, and afterwards in payment of all the other ſeparate debts of the ſaid *F. R.* party hereto, and of the intereſt attending and to grow due for ſuch of the ſame debts as carry intereſt in equal proportions, without any reſpect to the quality of them, and in payment of the ſame proportion of one-third part of the ſeveral principal ſums of —— and —— jointly owing from the ſaid *F. R.* *C. D.* and *H. G.* to *N. L.* and *A. H.* reſpectively, and of the intereſt due for the ſame, and in payment of ſo much and ſuch part of the other joint debts of the ſame *F. R.* between him and other joint debtors, as he the ſaid *F. R.* is in equity liable to pay, AND alſo, ſhall pay, and diſpoſe of the reſidue or ſurplus of the money ariſing, to be recovered, got in and produced as aforeſaid, which ſhall remain after payment of the ſeveral debts, incumbrances, ſums of money, intereſt, charges, and expences herein before directed to be iſſued and applied thereout, in or towards the ſatisfying

Manner of applying the funds ſurplus.

or diſcharging the principal money and intereſt which ſhall be therein charged by way of mortgage upon the ſaid meſſuages, granaries, and premiſes in ——, by virtue or in purſuance of theſe preſents, ſo far as ſuch ſurplus will extend, and be ſufficient for that purpoſe, It being the intention and true meaning of theſe preſents, and the parties hereunto, that the ſaid meſſuage, granaries, and premiſes in ——, ſhall not be charged with or contribute to the payment of the ſaid debts, incumbrances, ſums of money, intereſt, charges, and expences, or otherwiſe, any further than to ſupply and make up the money to ariſe and be produced by and out of the eſtate and effects of the ſaid *F.R.* herein before appropriated and made applicable to the payment thereof, ſhall be deficient for that purpoſe; and as to the ultimate ſurplus if any of the money ariſing and to be recovered, got in and produced as aforeſaid, which ſhall remain after payment of the principal money and intereſt laſt before mentioned, and after payment of the ſeveral debts, incumbrances, ſums of money, intereſt, charges, and expenſes herein before directed to be iſſued and applied thereout, the ſame ſhall be in truſt for the ſaid *F.R.* party hereto, his executors, adminiſtrators, and aſſigns. AND it is hereby declared, that it ſhall and may be lawful to and for the ſame truſtees, and the ſurvivors and ſurvivor of them to cauſe and procure any further ſum or ſums of money to be inſured upon the ſhares and intereſt hereby aſſigned on the ſaid ſhips, and upon the goods ſhipped on the account of the ſaid *F. R.* therein, and upon the freights

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The ſurplus to be in truſt for F. R.

Proviſo, that the truſtees may make further the aſſurance of

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and profits ariſing and to riſe therefrom, and by and out of the debts, perſonal eſtates, and effects hereby aſſigned, to pay the expences attending the making and procuring ſuch inſurances, and that the benefit of ſuch inſurances, and the money to be recovered, and received by virtue thereof, ſhall be applied in the ſame manner as the money to ariſe and be produced from the ſame debts, eſtates and effects, is herein before declared to be applied. And the ſaid *F. R.* party hereto doth hereby authoriſe and appoint the ſaid *D. E. G. O.* and *A. Y.* and the ſurvivor of them to aſk, demand, and receive of and from all perſons liable, obliged, or inſtructed to pay the ſame, all the debts, freights, profits, and ſums of money mentioned and intended to be hereby aſſigned, and to give receipts and diſcharges for the ſame. And alſo to take, uſe, and proſecute every or any lawful method cauſe or expedient for recovering and receiving the ſame or any part thereof, either in the name of the ſaid *F. R.* party hereto or otherwiſe as to the ſaid *D. E. G. O.* and *A. Y.* or the ſurvivor of them ſhall ſeem requiſite or expedient, in as full, ample and beneficial a manner to all intents and purpoſes as the ſame *F. R.* could or might have done in caſe he were perſonally preſent, or as if thoſe preſents had not been made and executed. And it is hereby declared, that it ſhall and may be lawful to and for the ſaid *D. E. G. O.* and *A. Y.* and the ſurvivors and ſurvivor of them to ſubmit any difference or diſpute that may ariſe

The benefit thereof to be applied as aforeſaid.

Power of attorney to get in ſame. (*a*)

Declaration and power to refer matters in diſpute to arbitration. (*b*)

(*a*) See ante, p. 10. (*b*) See ante. vol. 1. p. 127.

between them and any perſon or perſons whoſoever, for or on account, or by reaſon or means of any matter, cauſe or thing whatſoever relating to the eſtates and effects of the ſame *F. R.* hereby aſſigned, to the final end and determination of arbitrators to be choſen by the ſaid truſtees or the ſurvivors or ſurvivor of them, and the party or parties with whom they ſhall have ſuch difference, and to perform the award of ſuch arbitrators, or otherwiſe to compound and agree the matters, and differences, and diſputes between them in ſuch manner as the ſame truſtee or truſtees ſhall think fit and can agree, and the ſame ſhall be binding upon all the creditors of the ſaid *F. R.* who ſhall come in and take benefit under the truſts aforeſaid. And alſo, that it ſhall and may be lawful to and for the ſaid *D. E. G. O.* and *A. Y.* and the ſurvivors and ſurvivor of them, and he or they are hereby authoriſed to make compoſition with any perſon or perſons, for his or their debts or accounts, or to or with the ſaid *F. R.* party hereto, where the ſame ſhall appear neceſſary or reaſonable, and to take ſuch reaſonable payment as can upon ſuch compoſition be gotten in diſcharge of ſuch debts and accounts. Provided always, and it is hereby declared, that theſe preſents and the aſſignment hereby made, ſhall not comprehend or paſs any of the debts, money, or effects due or belonging to the ſaid *F. R.* in partnerſhip with the ſaid *D. C.* and *D. E.* nor ſhall the proviſion hereby made for the payment of the debts of the ſaid *F. R.* extend to any debts or payments due or demandable from the ſaid *F. R.* jointly with the ſaid *D. C. D. E.*

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And to make compoſition with any perſons.

Proviſo, that theſe preſents ſhall not extend to copartnerſhip debts.

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or to which the ſame *F. R.* is ſeparately liable on account of the ſaid partnerſhip, except the third part of the ſaid bonds, debts, due to the ſaid *A. H.* and *N. L.* reſpectively as aforeſaid. AND it is alſo further declared, that the truſts and proviſion hereby made for the payment of the debts of the ſaid *F. R.* is ſo made upon this expreſs condition and confidence, that the ſeveral creditors coming in and taking benefit under the ſaid truſts and proviſion, do, and ſhall accept the ſame in full ſatisfaction of the debts and demands as againſt the ſaid *F. R.* and his eſtate, but ſo as not to prevent any of ſuch creditors from receiving or recovering from any perſon or perſons jointly liable with the ſaid *F. R.* ſo much, and ſuch part of the ſaid debtors, or demands as the ſame creditors ſhall not receive by virtue of, or under the ſame truſts, and if any of ſuch creditors of the ſame *F. R.* ſhall refuſe to accept of the ſaid proviſion, in and for ſuch ſatisfaction, accordingly, in that caſe, the creditors ſo refuſing, ſhall be, and he, ſhe, or they are hereby excluded from taking any benefit from the ſaid truſts and proviſion. AND it is hereby agreed and declared, by and between the parties to theſe preſents, that the ſaid *D. E. G. O.* and *A. Y.* ſhall ſubject to the truſts hereinbefore thereof declared, ſtand ſeiſed of, and intereſted in the ſaid meſſuage, granaries, and premiſes in —— aforeſaid, laſt herein mentioned, to be hereby releaſed, and the inheritance and equity of redemption thereof, upon the ſeveral truſts, and to and for the ſeveral intents and purpoſes, and under and ſubject to the declarations and agreements hereinafter mentioned

Intended that creditors coming in under this deed ſhall accept the payments under it in full ſatisfaction of the debts, and that this deed ſhall not extend to prevent the creditors from purſuing any perſon except the ſaid F. R. for their debts.

Declaration as to the truſts of the equity of redemption of the ſaid meſſuage, &c. ſubject as aforeſaid,

and expreſſed, and declared, and of or concerning the ſame (that is to ſay) in truſt for the ſaid *F. R.* party hereto, and his aſſigns, during his natural life, and in truſt during his life, to ſupport and preſerve the contingent truſts hereinafter limited, from being defected or deſtroyed, and from and after the deceaſe of the ſame *F. R.* in truſt for ſuch perſon or perſons, for ſuch eſtate or eſtates, and in ſuch parts, and proportions, and manner, and for ſuch intents and purpoſes as the ſame *F. R.* and *A.* his wife, by any deed or deeds, with, or without power of revocation, to be by them ſigned, ſealed, and delivered, in the preſence of two or more credible witneſſes, ſhall direct, limit, or appoint, and in default of, and until ſuch directions or appointments, or in caſe any ſuch ſhall be made, in that caſe when, and as the eſtates and intereſts thereby limited and appointed ſhall reſpectively ceaſe or determine, in truſt for the ſaid *A. R.* and her aſſigns, for and during her natural life, and from and after her deceaſe, in truſt for all and every the child and children of the ſaid *F. R.* party hereto, on the body of the ſaid *A.* his wife, begotten or to be begotten, and the heirs of the body and bodies of all and every ſuch child or children iſſuing, and ſuch children if more than one, to take in equal ſhares and proportion, as tenants in common, and and not as jointenants, and in caſe of the death of any of the ſaid children of his, her, or their body or bodies reſpectively, (*a*) then as well the other

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viz in truſt for F. R. for life,

remainder in truſt for ſuch perſons or perſon as he and his wife ſhall appoint,

and in default of appointment in truſt for wife for life, remainder to children, as tenants in common;

(*a*) Vide for this Mr. *Fearn's* limitation of croſs remainders, poſt RELEASE.

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part or ſhare of ſuch child or children ſo dying, or their iſſue ariſing by way of ſurvivorſhip, or accruer upon the death and failure of iſſue of any other or others of the ſaid children, ſhall from time to time go over and remain to, and be in truſt for the ſurvivors and ſurvivor, others and other of them, and the heirs of the body and reſpective bodies of ſuch ſurviving and other child and children lawfully iſſuing, ſuch ſurviving children if more than one to take as tenants in common, and not as jointenants, and in caſe all ſuch children but one ſhall die without iſſue, then in truſt for ſuch only child, and the heirs of the body of ſuch only child, and in default of ſuch iſſue, then in truſt for the right heirs of the ſaid *F. R.* party hereto, for ever. And the ſaid *F. R.* party hereto, doth hereby for himſelf, his heirs, executors and adminiſtrators, covenant, promiſe, and agree, to and with the ſaid *D. E. G. O.* and *A. Y.* their heirs, executors, adminiſtrators and aſſigns, that he the ſame *F. R.* his heirs, executors and adminiſtrators, and all and every other perſon and perſons having or lawfully claiming any eſtate, right, title, truſt, or intereſt, either at law or equity, of, in, to, or one of the aforeſaid meſſuages, cottages, granary, lands, tenements, rents, hereditaments, goods, chattels, perſonal eſtates, and premiſes hereinbefore mentioned, to be hereby releaſed and aſſigned reſpectively, or any of them, or any part thereof, by, from, or under, or in truſt for him or them, ſhall and will from time to time, and at all times hereafter, upon

and in default of ſuch iſſue, then to the ſaid F. R. and his heirs for ever.

Covenant for further aſſurance (*a*).

(*a*) See ante p. 44. and ſee poſt. title COVENANTS.

every reaſonable requeſt of the ſaid *D. E. G. O.* and *A. Y.* or of the ſurvivors or ſurvivor of them, or of the executors or adminiſtrators of ſuch ſurvivor, but at the proper coſts and charges of the ſaid *F. R.* party hereto, his heirs, executors, or adminiſtrators, make, do, and execute, or cauſe or procure to be made, done, and executed, all and every ſuch further, and other lawful and reaſonable acts, deeds, conveyances and aſſurances in the law whatſoever, for the better, more perfect, and abſolute granting, conveying and aſſigning the ſame meſſuages, cottages, granaries, lands, tenements, rents and hereditaments, goods, chattels, perſonal eſtates, and premiſes hereinbefore mentioned, to be hereby releaſed and aſſigned reſpectively, with their and every of their appurtenances unto the ſaid *D. E. G. O.* and *A. Y.* their heirs, executors, adminiſtrators, and aſſigns, reſpectively, and for the better enabling them to recover and get in the debts, profits, and ſums of money hereby aſſigned, upon the truſts, and under and ſubject to the proviſos, declarations and agreements hereinbefore mentioned, expreſſed and declared, of and concerning the ſame, as by the ſaid *D. E. G. O.* and *A. Y.* the ſurvivors or ſurvivor of them, or the heirs, executors, adminiſtrators, or aſſigns, of ſuch ſurvivor, or their or any of their counſel learned in the law, ſhall be reaſonably adviſed, or deviſed, and required. AND it is hereby declared and agreed, that the receipt and receipts of the ſame truſtees or any of them, or the ſurvivors or ſurvivor of

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Receipt of the truſtees to be a good diſcharge to purchaſers (*a*).

(*a*) See Authorities collected. *Pow.* Mortgages, 285, &c. Alſo, *Elem. Conv.* A. Bk. ii. Par. iii. ch. vii.

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them, or of the executors or adminiſtrators of ſuch ſurvivor, under their, or his hand or hands reſpectively, ſhall from time to time, effectually diſcharge the reſpective purchaſer or purchaſers, mortgagee or mortgagees, of any part of the premiſes hereby directed to be mortgaged, or ſold reſpectively, of and from the ſaid purchaſe or mortgage, money for which ſuch receipt or receipts ſhall be ſo given, and that after ſuch receipt and receipts, ſuch purchaſe or purchaſers, mortgagee or mortgagees, reſpectively, ſhall be, and are hereby abſolutely and actually diſcharged, of, and from the ſame money, and they or any of them, after ſuch receipt and receipts, ſhall not be anſwerable or accountable for any loſs, miſapplication, or non-application of ſuch purchaſe or mortgage money, or any part thereof, reſpectively; AND it is hereby further agreed and declared, that the ſaid *D. E. G. O.* and *A. Y.* ſhall not, nor any of them, be anſwerable or accountable for any money to be received, under the truſts and authorities, hereby in them veſted or repoſed, any otherwiſe than each perſon for ſuch ſum or ſums of money, as he ſhall reſpectively, actually receive, and that no one of them ſhall be anſwerable or accountable, for the acts, receipts, neglects and defaults of the others or other of them. AND alſo, that the ſame truſts, their reſpective heirs, executors, adminiſtrators, and aſſigns, ſhall and may, by and out of the ſaid truſt, eſtate, money and premiſes, hereby veſted in them as aforeſaid, be allowed, and retain to, and reimburſe them-

Truſtees not to be accountable for more than they actually receive, (*a*)

(*a*) See ante 113, note (*a*)

ſelves, all ſuch coſts, charges, damages, and expences, as they reſpectively ſhall, or may ſuſtain, in or about the execution of the truſts or authorities hereby in them veſted or repoſed. IN WITNESS, &c.

PORTIONS.

And to reimburſe themſelves all expences.

Appointment, by Father and Mother, of South Sea Stock, *as a* Portion *for one of their Daughters, and Settlement thereof to ſpecial Uſes.*

This indenture of four parts, made, &c. between *D. S.* of ——, and *A.* his wife, who was the only daughter of *B. I.* late of ——, deceaſed, of the firſt part, *D. B.* of ——, and *Q. Q.* of ——, of the ſecond part, *C. I.* of ——, ſecond ſon now living of *C. W.* late of ——, deceaſed, and *D. I.* wife of the ſaid *C. I.* (late *D. S.* ſpinſter, one of the daughters of the ſaid *D. S.* by the ſaid *A.* his wife) of the third part, and the ſaid *O. P.* and the Rev. *H. T.* of ——, of the fourth part. Whereas, [Recital of ſettlement made on themarriage of the appointor, authoriſing the preſent appointment.] AND whereas the ſaid *D. S.* and *A.* his wife, being by virtue of their ſaid ſettlement, inveſted with the full and abſolute power of appointing ſuch part of the ſaid truſt-monies, ſtocks, and funds, now remaining unappointed, as they ſhall think proper, for the portion of the

Parties.

Recital of marriage ſettlement.

Recital of having power to appoint. (*a*)

(*a*) See ante, p. 5, 6.

PORTIONS.

ſaid *D. I.* and in ſuch manner and under ſuch reſtrictions as they ſhall judge expedient. And they not approving of the diſpoſition or ſettlement by the ſaid laſt recited marriage articles, agreed to be made of ſuch portion or fortune as the ſaid *D. I.* might become entitled to as therein mentioned, they the ſaid *D. S.* and *A.* his wife, have agreed, in purſuance of the ſaid power in them veſted, in and by virtue of their ſaid recited marriage ſettlement, and for the conſiderations next hereinafter mentioned, to appoint the ſum of —— old South Sea annuities, part of the ſaid ſum of —— old South Sea annuities now remaining unappointed as before mentioned, as and for, and in full for the portion or fortune of the ſaid *D. I.* and for her part and ſhare of and in all the ſaid ſettled truſt-monies, ſtocks, and funds, provided, and upon condition that the ſame ſum of ——, old South Sea annuities ſo to be appointed, be thereupon ſettled and aſſured upon and for the benefit of the ſaid *C. I.* and *K.* his wife, and their iſſue, and in ſuch default thereof as after expreſſed, then upon the iſſue of the ſaid *D. I.* by any future huſband or huſbands in manner hereinafter mentioned, and in default of, or in failure thereof as hereinafter expreſſed, then upon and for the benefit of the ſaid *C. S.* and *U. S.* the other daughters of the ſaid *D. S.* and *A.* his wife, in manner hereinafter expreſſed, to which the ſaid *C. I.* and *K.* his wife, have agreed to concur in and make the aſſignment and ſettlement thereof accordingly hereinafter contained, he the ſaid *C. I.* being releaſed in the manner hereinafter mentioned and

And of agreement to ſettle.

expreſſed, from all and every the covenants and agreements in the ſaid marriage articles, for the ſettlement of the portion or fortune which the ſaid *K.* his wife might become entitled to, or of a moiety or any other part or ſhare thereof. AND whereas in execution of ſuch appointment and proviſion as aforeſaid, ſo agreed to be made and executed by the ſaid *D. S.* and *A.* his wife, and hereinafter contained, in and by certain indentures of leaſe and releaſe and aſſignment, the leaſe bearing date the day next before the day of the date of the releaſe, and the releaſe being of ſix parts, and bearing or intended to bear even date with theſe preſents, and made or intended to be made between the ſaid *C. I.* and *K.* his wife, of the firſt part, *C. G.* eſq. eldeſt ſon now living and heir-at-law of the ſaid *C. W.* deceaſed, and alſo a reſiduary deviſee and ſole executor, named and appointed in and by the laſt will and teſtament of the ſaid *C. W.* of the ſecond part, the ſaid *D. S.* and *A.* his wife, of the third part, *W. E.* of ——, gentleman, of the fourth part, the ſaid *O. P.* and *H. T.* of the fifth part, and the ſaid *Q. Q.* and *Y. Y.* of ——, eſq. of the ſixth part, (being the ſettlement made or intended to be made by the ſaid *C. G.* and *C. I.* of the ſeveral freehold and leaſehold meſſuages, &c. therein mentioned purſuant to the ſaid articles of agreement, executed previous to and in conſideration of the marriage of the ſaid *C. I.* with the ſaid *D. I.* his wife, and by a recovery to be ſuffered purſuant to an agreement for that purpoſe, contained or intended to be contained in the ſame indenture of releaſe, the ſeveral free-

Recital of intention to ſettle freehold premiſes.

PORTIONS.

hold and leaſehold hereditaments and premiſes, mentioned in the ſaid recited articles entered into on the marriage of the ſaid *C. I.* and *K.* his wife, are or are intended to be limited, ſettled, and aſſured reſpectively, from and after the deceaſe of the ſurvivor of them the ſaid *C. I.* and *K.* his wife, beyond the extent of the covenants and agreements contained in the ſaid laſt-mentioned articles, to, upon, and for the benefit of the children and iſſue of the ſaid *C. I.* on the body of the ſaid *K.* begotten or to be begotten, in ſuch order and courſe, manner and form as therein is limited and expreſſed. NOW THIS INDENTURE WITNESSETH, that for and in conſideration of the ſaid marriage, ſo had between the ſaid *C. I.* and *K.* his wife, and of the ſaid ſettlement ſo made or intended to be made, by the ſaid *C. G.* and *C. I.* in and by the ſaid laſt hereinbefore mentioned indenture of leaſe and releaſe and recovery, to be ſuffered in purſuance thereof as aforeſaid, and for making ſuch proviſion for the ſaid *C. I.* and *K.* his wife, and their iſſue as hereinafter is expreſſed, and in purſuance and performance of the ſaid recited agreements, on the part of the ſaid *D. S.* and *A.* his wife, they the ſaid *D. S.* and *A.* his wife, purſuant to and in exerciſe of the ſaid power or authority to them given, and reſerved in and by hereinbefore in part recited marriage ſettlement, and by force and virtue thereof, and of all and every other power and powers, authority and authorities to them in that behalf given or reſerved, or in them veſted, or them in anywiſe thereto enabling, have limited, expreſſed, declared, directed, and

Indenture witneſſeth.

Appointment of ſtock.

appointed, and by theſe preſents do limit, expreſs, declare, direct, and appoint, the ſum of ——, old South Sea annuities, part of the ſum of ——, old South Sea annuities, being two third parts now remaining unappointed of the ſaid capital ſum of —, old South Sea annuities, ſtanding in the names of them the ſaid *D. B.* and *Q. Q.* as aforeſaid, unto, and as and for the portion, proviſion, and fortune, of the ſaid *K. I.* after the deceaſe of the ſaid *D. S.* and in full for her part, ſhare or proportion of and in all the ſaid truſt monies, ſtocks, and funds ſo veſted in them the ſaid *D. B.* and *Q. Q.* as aforeſaid, and accordingly to be paid and transferred immediately after the deceaſe of him the ſaid *D. S.* in the manner, and under and ſubject to the limitations and reſtrictions hereinafter limited, expreſſed, and declared concerning the ſame. And the ſaid *C. I.* and *K.* his wife, in conſideration of the premiſes, and in purſuance and execution of the aforeſaid agreement on their part and behalf to be performed; And alſo in conſideration of 10s. to them in hand paid by the ſaid *O. P.* and *H. T.* before the ſealing and delivery of thoſe preſents, the receipt whereof is hereby acknowledged, have granted, bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents do grant, bargain, ſell, aſſign, transfer, and ſet over unto them the ſaid *O. P.* and *H. T.* their executors, adminiſtrators, and aſſigns, the ſaid ſum of ——, old South Sea annuities, hereby limited and appointed as aforeſaid, and the ſtocks or funds on which the ſame is or hereafter ſhall be inveſted, and all the eſtate, right, title,

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Aſſignment of ſame upon truſts after mentioned.

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intereſt, truſt, property, poſſibility, claim, and demand whatſoever, of them the ſaid *C. I.* and *K.* his wife, of, in, or to the ſame or any part thereof, under and by virtue of the ſaid appointment or otherwiſe howſoever, To HAVE AND TO HOLD the ſame South Sea annuities, monies, ſtocks, funds, ſecurities, and premiſes hereby aſſigned or expreſſed, or intended ſo to be, unto the ſaid *O. P.* and *H. T.* their executors, adminiſtrators, and aſſigns, with full power to aſk, demand, ſue for, recover, and give legal and effectual diſcharges for the ſame, when due and payable, upon the truſts, and for the ends, intents and purpoſes, and under and ſubject to the powers, proviſos, declarations, limitations, and agreements hereinafter limited, expreſſed and declared of and concerning the ſame, (that is to ſay) And it is hereby agreed and declared by and between all and every the ſaid parties to theſe preſents, that they the ſaid *O. P.* and *H. T.* their executors, adminiſtrators, and aſſigns, ſhall ſtand and be poſſeſſed of and intereſted in the ſaid ſum of ——, old South Sea annuities, ſo to be appointed, and hereby aſſigned to them as aforeſaid, and the ſtocks, funds, and ſecurities, wherein the monies to ariſe by ſale thereof, ſhall be laid out and inveſted, and the intereſt, dividends, and annual produce thereof, and of every part thereof reſpectively, upon truſt, that they the ſaid *O. P.* and *H. T.* and the ſurvivor of them, his executors, adminiſtrators, and aſſigns, do and ſhall, from and after the deceaſe of the ſaid *D. S.* receive and pay to the ſaid *C. I.* and his aſſigns, and to permit and ſuffer, or fully au-

Upon truſt to pay the intereſt after the death of D. S. to the ſaid C. I. and his aſſigns during his life.

thoriſe and impower him and them from time to time, and at all times hereafter, for and during the term of his natural life, to have, receive, take and enjoy, all the clear yearly dividends, intereſt, and proceeds of the ſaid ſum of ——, old South Sea annuities, or ſuch ſtock, funds, and ſecurities as aforeſaid, and of every part thereof, as the ſame ſhall ariſe and from time to time become due and payable, to and for his and their own uſe and benefit, and from and after the deceaſe of him the ſaid *C. I.* in caſe the ſaid *K. I.* ſhall happen to ſurvive him, then upon truſt, that they the ſaid *O. P.* and *H. T.* and the ſurvivor of them, his executors, adminiſtrators, and aſſigns, do and ſhall receive and pay to the ſaid *K. I.* and her aſſigns, or permit and ſuffer, or fully authoriſe and impower her and them from time to time, and at all times thereafter, for and during the term of her natural life, to have, receive, take, and enjoy all the ſaid clear yearly dividends, intereſt, and produce, as the ſame ſhall ariſe, and from time to time become due and payable to and for her and their own uſe and benefit, and from and after the the deceaſe of the ſurvivor of them, the ſaid *C. I.* and *K.* his wife, upon truſt, that they the ſaid *O. P.* and *H. T.* or the ſurvivor of them, or the executors, adminiſtrators, or aſſigns of ſuch ſurvivor, do and ſhall pay, aſſign, transfer, and make over the ſaid ſum of ——, old South Sea annuities, or ſuch other ſtocks, funds, or ſecurities, wherein the money to ariſe by ſale thereof, ſhall be then placed out or inveſted, and every part thereof, unto and amongſt all and every, or ſuch one

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Afterwards to ſuch children as huſband and wife ſhall appoint.

or more of the child or children (*a*) of the ſaid *C. I.* by the ſaid *C.* his wife, other than and except an eldeſt or an only ſon at ſuch age or ages, (but under the reſtrictions after mentioned) days or times, in ſuch parts, ſhares, or proportions, manner and form, and with, under, and ſubject to ſuch proviſos and limitations over (ſuch limitations over being for the benefit of ſome one or more of ſuch children) as the ſaid *C. I.* and *K.* his wife, at any time or times during their joint natural lives, by any deed or deeds, writing or writings, with or without power of revocation, to be by them both ſealed and delivered in the preſence of, and atteſted by, two or more credible witneſſes, ſhall jointly direct and appoint; and in default of and ſubject to ſuch joint direction or appointment, then as the ſurvivor of them the ſaid *C. I.* and *K.* his wife, by any deed or deeds, with or without power of revocation to be ſealed and delivered by ſuch ſurvivor, and atteſted as aforeſaid, or as ſuch ſurvivor, by his, or her laſt will and teſtament in writing, or any writing purporting to be, or in the nature of his or her laſt will and teſtament, to be ſigned, ſealed, and publiſhed in the preſence of, and atteſted by two or more credible witneſſes, ſhall direct, give, or appoint. PROVIDED ALWAYS, and it is hereby declared, that the ſaid *C. I.* and *K.* his wife, or the ſurvivor of them, ſhall not by virtue of this preſent power of appointment, be authoriſed or impowered, nor ſhall the ſame, or any matter or

Such appointment not to extend to the giving children (other than daughters in marriage) a veſted intereſt before 21.

(*a*) See ante p. 3

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thing herein contained, extend or be conſtrued to authoriſe or impower them the ſaid *C. I.* and *K.* his wife, or the ſurvivor of them, to direct or appoint the ſaid ſum of — old South Sea annuities, or ſuch other ſtocks, funds, or ſecurities, as laſt mentioned, or any part thereof, to be paid or transferred to, or be made, or become, a veſted intereſt or veſted intereſts, in any ſuch child or children as aforeſaid, before he, ſhe, or they ſhall attain his, her, or their reſpective ages of 21 years, except in the caſe of a daughter or daughters, and upon, and in conſideration of the marriage or reſpective marriages of ſuch daughter and daughters; and in default of, and ſubject to any ſuch direction, gift, or appointments, do, and ſhall pay, aſſign, transfer, and make over the ſaid ſum of ——, old South Sea annuities, or the ſtocks, funds, and ſecurities, wherein the money to ariſe by ſale thereof, may be then laid out and inveſted unto or between, and amongſt all and every the child or children of the ſaid *C. I.* by the ſaid *K. I.* (except an eldeſt or only ſon) equally to be divided between and amongſt them, (if more than one) ſhare and ſhare alike; and if there ſhall be but one ſuch child, not being an eldeſt or only ſon, whether ſuch child be a ſon or daughter, then the whole thereof, to ſuch one child, the portion or portions of ſuch of the ſaid children as ſhall be a ſon or ſons, to be paid to him or them, at his or their reſpective age or ages of 21 years, and the ſhare or ſhares of ſuch of them, as

In default of appointment to the children equally, to veſt in ſons at 21, and to daughters that age or marriage. (*a*).

(*a*) See poſt title SETTLEMENT.

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shall be a daughter or daughters, to be paid to them, at her or their age or ages of 21 years, or day, or respective days of marriage, which shall first happen after the decease of the survivor of them the said *C. I.* and *K.* his wife. PROVIDED ALWAYS nevertheless, and it is hereby declared and agreed, that in case there shall be no such direction or appointment as aforesaid by the said *C. I.* and *K.* his wife, or the survivor of them, of and concerning the portions hereby intended for such children or child as aforesaid, and in case any of the same children, or such one child, (except an eldest or only son) being a son or sons, shall attain his or their age, or respective ages of 21 years, or being a daughter or daughters, shall attain her or their age or respective ages of 21 years, or be married before such age in the life time of them the said *C. I.* and *K.* his wife or either of them, then and from such ages or times respectively, all and every the rights and interests of such son and sons, so attaining the said age of 21 years, and of such daughter or daughters so attaining the like age or ages, or marrying before such age, of and in and to the said portion or portions hereby intended for them respectively, and whereof no such direction or appointment shall be made as aforesaid, shall respectively be, and be considered as vested interests in such sons or daughters respectively, and shall be transmissible as such, to his or their executors or administrators, but nevertheless the payment of the same portion or portions shall be postponed until six calendar months, next after the decease of the survivor of them the said *C. I.* and *K.* his wife, at

But payment to be postponed till after the death of their father and mother.

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which time they are to be paid with the intermediate intereſts or profits accruing thereon, from the time of ſuch deceaſe. PROVIDED alſo, that in caſe of there being more ſuch children than one (beſides an eldeſt or only ſon) if any ſuch child being a daughter, ſhall depart this life before ſhe ſhall attain the age of 21 years, and unmarried, or if any ſuch child being a ſon, ſhall depart this life, or become an eldeſt or only ſon, before he ſhall attain his age of 21 years, then and in default of, and ſubject to any ſuch direction or appointment, as aforeſaid, the portion hereby provided or intended for ſuch daughter or daughters, ſo dying under 21 years of age, and unmarried, and of ſuch ſon ſo dying under 21 years of age, or becoming an eldeſt or only ſon as aforeſaid, as well original, as accruing by virtue of this preſent clauſe, ſhall from time to time, go and accrue to the ſurvivors or ſurvivor, and others or other of the ſaid children (except an eldeſt or only ſon) equally to be divided between or among ſuch ſurvivors and others of them, (if more than one) ſhare and ſhare alike, and if but one, then the whole to ſuch one, and the ſame ſhall become veſted, and be paid and payable at ſuch reſpective ages, days, and times, and ſhall go in the ſame manner to ſuch ſurviving and other child or children, as is hereby provided and declared, touching his, her or their original portion or portions. AND upon this further truſt, that they the ſaid *O. P.* and *H. T.* and the ſur-

Benefit of ſurvivorſhip between the children.

Proviſo for maintenance, &c. of children, (*a*).

(*a*) See poſt. title Releaſe by way of SETTLEMENT.

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only ſurviving ſon as aforeſaid, the ſaid *O. P.* and *H. T.* and the ſurvivor of them, his executors, adminiſtrators and aſſigns, ſhall, from and after the deceaſe of the ſurvivor of them the ſaid *C. I.* and *K.* his wife, and until ſuch ſon ſhall attain the age of 21 years, pay and apply the dividends, intereſt, and annual produce of the ſum of ——, old South Sea annuities, or ſuch other ſtocks, funds, or ſecurities as aforeſaid, in and for the maintenance, education and benefit, of ſuch only, or only ſurviving ſon, and in caſe there ſhall not be any child of the ſaid *C. I.* by the ſaid *K.* his wife, which being a ſon ſhall attain the age of 21 years, or being a daughter ſhall attain the age of 21 years, or be married, before ſuch age, and the ſaid *K.* ſhall happen to ſurvive the ſaid *C. I.* her huſband, then upon this further truſt, that they the ſaid *O. P.* and *H. T.* or the ſurvivor of them, his executors, adminiſtrators, or aſſigns, do, and ſhall from and after the death of the ſaid *K.* and ſuch failure of children of her body, by the ſaid *C. I.* as aforeſaid, pay, aſſign, transfer, and make over the ſaid ſum of ——, old South Sea annuities, or ſuch ſtocks, funds, or ſecurities as aforeſaid, unto, or between and amongſt all and every, or ſuch one or more of the child or children of the ſaid *K. C.* by any huſband or huſbands whom ſhe may happen to marry after the deceaſe of the ſaid *C. I.* at ſuch age or ages, (ſubject to the reſpective proviſos, herinafter in that behalf contained) days or times in ſuch parts, ſhares and proportions, manner and form, and with, under and ſubject to ſuch proviſos and limitations over (ſuch limitations

In default of iſſue of the preſent marriage, the truſt monies to be for the benefit of children of the wife by any future marriage.

over being for the benefit of ſome one or more of ſuch laſt-mentioned children,) as the ſaid *C. I.* at any time or times during her life, and notwithſtanding her being under coverture by any deed or deeds, inſtrument or inſtruments, in writing with or without power of revocation to be ſealed and delivered by her in the preſence of and atteſted by two or more credible witneſſes, or by her laſt will and teſtament, to be by her ſigned, ſealed, and publiſhed in the preſence of, and atteſted by the like number of witneſſes ſhall limit, direct, or appoint: provided always, and it is hereby declared, that the ſaid *C. I.* ſhall not by virtue of this preſent power of appointment, be authoriſed or impowered to direct or appoint the ſaid ſum of ——, old South Sea annuities, or any other ſtock or fund in which the ſame money ſhall be then inveſted, or any part thereof, to be paid or transferred, or be made or become a veſted intereſt in any ſuch child of her by any ſuch future huſband, before ſuch child attains his or her age of 21 years, except in the caſe of a daughter, upon ſuch daughter's marriage under that age; and upon further truſt, that they the ſaid truſtees, or the ſurvivor of them his executors, adminiſtrators, or aſſigns, in default of, and ſubject to any ſuch limitation, direction or appointment, do and ſhall pay, aſſign, transfer, and make over the ſaid ſum of ——, old South Sea annuities, or ſuch other ſtocks, funds, or ſecurities as aforeſaid, or ſo much thereof as ſhall not be ſo appointed unto or between, and amongſt all and every ſuch child and children of the ſaid *C. I.* by any ſuch after taken huſband, or huſbands, PORTIONS.

PORTIONS. equally divided between or amongſt them (if more than one), ſhare and ſhare alike, and if there ſhall be but one ſuch child, then the whole to ſuch only child, the ſhare and ſhares of ſuch of them as ſhall be a ſon or ſons to be paid to him, or them, at his or their age or reſpective ages of 21 years, and the ſhare or ſhares of ſuch of them as ſhall be a daughter or daughters, to be paid to her or them at her or their age, or reſpective ages of 21 years, or day, or reſpective days of marriage, which ſhall firſt happen after the deceaſe of the ſaid *C. I.* provided always, and it is hereby further declared and agreed, that all and every the portion and portions hereby provided in the events before mentioned for the child or children of the ſaid *K. I.* by any ſuch huſband or huſbands whom ſhe may ſo marry after the deceaſe of the ſaid *C. I.* as aforeſaid ſhall veſt in the ſame child or children reſpectively in default of ſuch appointments as laſt mentioned, at ſuch and the ſame age and ages, time and times with ſuch and the ſame benefit of accruerſhip, to and amongſt them if more than one, and ſhall be ſubject to ſuch or the like powers, proviſos, declarations, and agreements, and the dividends, and intereſts of the ſame portion or portions reſpectively, ſhall and may be paid, and applied for the maintenance and education of the ſaid child or children reſpectively in ſuch and the ſame manner as is herein before declared, limited, and appointed, of and concerning the portion and portions hereby provided for the child or children of the ſaid *C. I.* by the ſaid *K. I.* his wife as aforeſaid, or as near to it as the nature of the caſe and circumſtances will

then admit of, and in caſe there ſhall not be any child of the ſaid *K. I.* by any ſuch future huſband or huſbands whom ſhe may ſo marry as aforeſaid; who being a ſon ſhall attain the age of 21 years, or being a daughter, ſhall attain that age or be married under that age, then; from and after the deceaſe of the ſurvivor of them, the ſaid *C. I.* and *K.* his wife, whether he or ſhe ſhall happen to be ſuch ſurvivor, and after ſuch default and failure of children of the body of the ſaid *C. I.* by the ſaid *K.* his wife as before is mentioned, and ſuch failure of children of her by any future huſband as aforeſaid upon truſt, that they the ſaid *O. B.* and *H. T.* or the ſurvivor of them his executors, adminiſtrators, or aſſigns, do and ſhall pay, aſſign, transfer, and make over the ſaid ſum of ——, old South Sea annuities, or ſuch ſtocks, funds, and ſecurities as aforeſaid, unto the ſaid *C. S.* wife of the ſaid *O. B.* and the ſaid *U. S.* the two other daughters of the ſaid *U. S.* and *A.* his wife to be divided between them in equal parts, ſhares, and proportions, and ſhare and ſhare alike, as tenants in common, or to their ſeveral and reſpective executors, adminiſtrators, and aſſigns, as part of the perſonal property of them the ſaid *C. S.* and *U. S.* reſpectively: Provided always, and it is hereby declared and agreed, by and between all the ſaid parties to theſe preſents, that it ſhall and may be lawful to and for the ſaid *O. B.* and *H. T.* or the ſurvivor of them his executors, adminiſtrators, and

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Power for parties, to change ſecurities. (a)

(a) See poſt SETTLEMENT.

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aſſigns, at any time or times after the ſaid ſum of ——, old South Sea annuities, ſhall be veſted in or transferred to them as aforeſaid, and until the truſts herein before declared concerning the ſame ſhall be fully executed and performed, (with the conſent of the ſaid *C. I.* and *K.* his wife during their joint lives, and after the deceaſe of either of them, then with the conſent of the ſurvivor of them, during his or her life, ſuch conſent to be teſtified by any writing or writings under their, his, or her hands and ſeals, or hand and ſeal, and from and after the deceaſe of the ſurvivor of them, the ſaid *C. I.* and *K.* his wife, then at the diſcretion of the truſtees or truſtee of the ſame truſt, monies and premiſes for the time being to ſell, transfer, and diſpoſe of the ſaid ſum of ——, old South Sea annuities, or any part thereof, and from time to time, (with ſuch conſent, and teſtified as aforeſaid, or at the diſcretion of the ſaid truſtees or truſtee, for the time being, as the caſe ſhall happen), to lend and place out the money ariſing by ſuch ſale or ſales upon any parliamentary ſtocks, funds, or real government ſecurities, at intereſt, and in the mean time, to depoſit the ſame for ſafe cuſtody in the Bank of England, or elſewhere, ſubject to the truſts aforeſaid, and from time to time in like manner, to call and receive ſuch monies ſo to be lent or placed out on ſecurities as aforeſaid, or to ſell and diſpoſe of ſuch ſtocks, or funds ſo to be purchaſed as aforeſaid, or any part thereof, and again to lend, place out, and inveſt the ſame monies or any part thereof, in other ſecurities, ſtocks, or funds of the like nature as often as occaſion

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ſhall require, and it is hereby declared, and agreed, that the ſaid *O. B.* and *T. H.* and the ſurvivor of them his executors, adminiſtrators, and aſſigns, ſhall ſtand poſſeſſed of, and intereſted in all ſuch new or other ſecurities, ſtocks, and funds wherein ſuch monies ſhall be ſo laid out or inveſted, and the intereſt, dividends and annual produce thereof, and every part thereof reſpectively, upon the ſame truſts, for the ſame intents and purpoſes and ſubject to the ſame powers, proviſos, reſtrictions, and agreements as are in and by theſe preſents, limited, expreſſed, or declared, of and concerning the ſaid ſum of—, old South Sea annuities, and the intereſt, and dividends thereof, or ſuch of them as ſhall be then ſubſiſting, undetermined, and capable of taking effect. (Proviſo that truſtees to be anſwerable for their own acts only, and to reimburſe themſelves). AND this indenture further witneſſeth, that in purſuance and performance of the ſaid recited agreement in this behalf, and in conſequence of the ſettlement hereby made of the portion or fortune of the ſaid *D. C.* they the ſaid *O. B.* and *H. T.* (at the requeſt and by and with the expreſs direction and appointment of the ſaid *D. S.* and *A.* his wife, and *C. I.* teſtified by their being parties to and ſeverally ſealing and delivering theſe preſents), do and each of them doth for themſelves, their reſpective heirs, executors, and adminiſtrators, remiſe, releaſe, and for ever quit claim unto the ſaid *C. I.* his heirs, executors, and adminiſtrators, all and every the cove-

Indenture further witneſſeth.

Releaſe of covenants, &c. contained in marriage articles. (*a*)

(*a*) See poſt title RELEASE.

PORTIONS.

nants, ſtipulations, and agreements, in and by the ſaid, in part recited articles of agreement, executed previous to and in conſideration of the marriage of the ſaid *C. I.* with the ſaid *K.* his wife, mentioned, expreſſed, declared, and contained of or concerning the ſettlement or diſpoſition of the portion or fortune of the ſaid *K. C.* which the ſaid *C. I.* might at any time become intitled to as therein mentioned, or of a moiety, or any other part or ſhare thereof, and all and every truſt, and truſts, thereby expreſſed or declared concerning the ſame, and all benefit and advantage of the ſame covenants ſtipulations or agreements, and every or any of them, and all and all manner of action or actions, ſuit and ſuits at law, or in equity, claims, and demands whatſoever, which they the ſaid *O. B.* and *H. T.* or either of them therein, or either of their heirs, executors, or adminiſtrators, may or otherwiſe might have claim, demand, or be intitled unto, upon or againſt the ſaid *C. I.* his heirs, executors, or adminiſtrators, for or upon account of the ſame covenants, ſtipulations, and agreements, or any of them, or the breach or non-performance thereof or otherwiſe howſoever, in relation thereto. [Covenant from *U. S.* for himſelf, his heirs, executors, and adminiſtrators, and for the ſaid *A.* his wife, and the ſaid *C. I.* for himſelf, his heirs, executors, and adminiſtrators, and for the ſaid *H.* his wife, to do all further acts for the further aſſurance, better, more perfect and abſolute confirming and corroborating theſe preſents, and for the effectually appointing, aſſigning, tranſferring, and aſſuring of the ſaid ſum of ——, old

Covenant for further aſſurance.

South Sea annuities, and ſuch other ſtocks, funds, or ſecurities in which the ſame or any part thereof ſhall be inveſted as aforeſaid, unto the ſaid *O. B.* and *H. T.* their executors, adminiſtrators, or aſſigns, upon the ſeveral truſts, for the ſeveral ends, intents and purpoſes, and under and ſubject to the ſeveral powers, proviſos, limitations, declarations, and agreements herein before limited, expreſſed, and declared, and contained, of and concerning the ſame, and for the better enabling them the ſaid *O. B.* and *H. I.* their executors, adminiſtrators, and aſſigns, to execute and perform the ſeveral truſts hereby in them repoſed, as by the ſaid *B. O.* and *H. I.* or either of them, their or either of their executors, adminiſtrators, or aſſigns, ſhall be lawfully and reaſonably deviſed, adviſed, and required.] DISCHARGE.

* *Deed of Appointment, &c. for diſcharging a Piece of Ground, (deſigned for the Building an Hoſpital,) from ſeveral Settlements, Mortgages, &c. to which it was liable.*

THIS Indenture, &c. between *X. U.* of, &c. of the firſt part, *M. B.* of, &c. and *F. P.* of, &c. (truſtees in the ſettlement hereinafter in part recited) of the ſecond part, Sir *W. U.* &c. of the third part, *W. U.* and *M.* his wife, of the fourth part, *B. U.* ſpinſter, and *M. U.* ſpinſter, two of the three daughters, and only younger children of the ſaid Sir *W. U.* by Dame *B. M. U.* (before *B. M. W.* ſpinſter, his firſt wife, deceaſed) of the

DISCHARGE.

fifth part, and the Hon. *L. T. W.* Sir *E. G. G. U. H. O. J. N. W. D.* (ſix of the ſubſcribers for eſtabliſhing of a general county hoſpital, in or near the city of ——) of the ſixth part.

Recital of reſolution to erect an hoſpital.

WHEREAS, many of the gentry, clergy, and principal inhabitants of the ſaid county of ——, and the city of ——, ſome time ſince reſolved to erect a general county hoſpital in or near the city of —, by the name of the general —— and —— hoſpital, on a ſimilar plan with other hoſpitals, of the like kind in ſeveral other counties in this kingdom, and for that purpoſe a conſiderable ſum of money, for purchaſing of ground, and for erecting buildings, and eſtabliſhing the ſaid hoſpital, has been raiſed by ſubſcription, and the ſubſcribers have appointed a committee, for the better carrying ſuch their intentions into effect.

Recital of contract for purchaſe of a piece of ground.

AND, whereas *J. U.* of the ſaid city of ——, gent. hath, under the authority and on the behalf of the ſaid committee, and with the conſent and approbation of the ſaid Sir *W. U.* and *W. U.* parties hereto, and *M.* his wife, contracted and agreed with the ſaid *M. B.* and *F. P.* for the abſolute purchaſe of the piece or parcel of paſture land and hereditaments hereinafter deſcribed, for the ſum of ——, for the purpoſe of erecting and building the ſaid hoſpital thereon, or on ſome part thereof, and making a garden and other neceſſary accommodations thereto.

That premiſes are charged with annuity.

AND whereas, the ſaid piece or parcel of paſture land and hereditaments hereinbefore mentioned, and agreed to be purchaſed, for the purpoſe of building thereon, and eſtabliſhing the ſaid intended hoſpital, (together with other

lands and hereditaments, are and ſtand charged and chargeable with the payment of a certain annuity or yearly rent charge of ——, of lawful money of *Great Britain*, payable to the ſaid *X. U.* his executors, adminiſtrators, and aſſigns, for and during the natural lives of the ſaid Sir *W. U.* and *W. U.* parties hereto, and the life of the longer liver of them, which ſaid annuity was given and granted to the ſaid *X. U.* his executors, adminiſtrators and aſſigns, in and by a certain indenture, tripartite, (enrolled in his Majeſty's Court of Common Pleas at Weſtminſter) bearing date on or about the — day of ——, which was in the year of ——, and made, or mentioned to be made, between the ſaid ſir *W. U.* and *W. U.* parties hereto, of the firſt part, the ſaid *X. U.* of the ſecond part, and *J. U.* of the third part, whereby alſo the ſame premiſes were demiſed by the ſaid Sir *W. U.* and *W. U.* parties hereto, unto the ſaid *J. U.* his executors, adminiſtrators, and aſſigns, for the term of 99 years, upon truſt, by the ways and means therein mentioned, for the better ſecuring the payment of the ſaid annuity or yearly rent-charge thereby granted. AND, whereas, by a certain indenture of bargain and ſale, (alſo enrolled in his Majeſty's ſaid Court of Common Pleas, at *Weſtminſter*) bearing date on or about the — day of ——, which was in the year of our Lord ——, and made, or mentioned to be made, between *A. P. H. P. I. P.* and *S. T.* (therein ſeverally named and deſcribed, of the firſt part; the ſaid Sir *W. U.* and *W. U.* parties hereto, of the ſecond part, and the ſaid *X. U.* of the third part; (after

DISCHARGE.

And alſo with a ſum on mortgage.

DISCHARGE.

reciting as therein is recited.) It is witneſſed, that for the conſideration in money (*a*) therein expreſſed, the ſaid *A. P. H. P. I. P.* and *S. T.* by the direction and appointment of the ſaid ſir *W. U.* and *W. U.* (parties hereto,) did bargain and ſell, and the ſaid ſir *W. U.* and *W. U.* (parties hereto,) by virtue and in execution of certain powers and authorities therein recited, and of all other powers and authorities whatſoever,) did limit and appoint, grant, bargain, ſell, and confirm, unto the ſaid *X. U.* his heirs and aſſigns, divers manors, meſſuages, &c. of them the ſaid ſir *W. U.* and *W. U.* or one of them, herein particularly mentioned, (compriſing therein the ſaid piece or parcel of paſturage land and hereditaments hereinbefore mentioned, and hereinafter particularly deſcribed,) to hold the ſame unto the ſaid *X. U.* his heirs and aſſigns, to the uſe of him the ſaid *X. U.* his heirs and aſſigns, for ever, by way of mortgage for ſecuring unto the ſaid *X. U.* his executors, adminiſtrators, and aſſigns, the principal ſum of —— of lawful money of *Great Britain*, and intereſt for the ſame, at the rate, and in the manner therein mentioned, which ſaid principal ſum of —— is ſtill due and owing to the ſaid *X. U.* on the ſaid ſecurity. AND whereas the ſaid *B. M.* and *P. F.* and alſo the ſaid ſir *W. U.* and *W. U.* (parties hereto,) have requeſted the ſaid *X. U.* to releaſe and diſcharge the ſaid piece or parcel of paſture land, and hereditaments,

Annuitant and Mortgagee have agreed to diſcharge the premiſes from the ſaid incumbrances.

(*a*) N. B. Bargain and ſale muſt be for money, ſee poſt. title BARGAIN AND SALE.

hereinbefore mentioned, and hereafter deſcribed, as well from the payment of the ſaid annuity or yearly rent charge of —— granted as aforeſaid, as alſo from the payment of the ſaid principal ſum of —— and intereſt, and to convey and aſſign the ſame piece or parcel of paſture land and hereditaments unto the ſaid *W. T.* ſir *K. E. H. T. O. H. K. T.* and *D. W.* and their heirs, for the purpoſe of the ſaid intended hoſpital, in manner hereinafter mentioned, which the ſaid *X. U.* in regard of the humane and benevolent purpoſe to which the ſaid piece or parcel of paſture land, is intended to be applied, hath conſented and agreed to do accordingly. Now this indenture witneſſeth, that in conſideration (*a*) of the premiſes, and in order to further and aſſiſt the benevolent intentions of the ſubſcribers for eſtabliſhing of the ſaid intended hoſpital, and for and in conſideration of the ſum of 10s. of lawful money of *Great Britain*, to the ſaid *X. U.* in hand well and truly paid by the ſaid *T. L.* &c. (*the truſtees*,) at or before the ſealing and delivering, &c. (the receipt whereof is hereby acknowledged,) he the ſaid *X. U.* (at the requeſt, and by the direction and appointment as well of the ſaid *B. M.* and *P. F.* as of the ſaid ſir *W. U.* and *W. U.* (parties hereto,) and *L. C.* his wife, (teſtified by their ſeverally ſealing and executing theſe preſents, hath granted, &c. and by theſe preſents doth, (at and by the like requeſt, direction, and appointment, grant, bargain, &c. unto the ſaid *T. L.* &c. (*the truſtees*) in their actual, &c. and to the

DISCHARGE.

Indenture witneſſeth.

The mortgagee and ſurrogatant conveys to truſtees of the hoſpital.

(*a*) See ante vol. i. p. 34.

DISCHARGE.

heirs and aſſigns of the ſaid *T. L.* &c. (*truſtees,*) for ever, all, &c. or howſoever otherwiſe the ſaid piece or parcel of paſture land, or any part thereof doth lie, abut or bound, or is deſcribed, known, or diſtinguiſhed, upon which ſaid piece or parcel of land, the ſaid intended hoſpital is now building, and alſo all manner of edifices, buildings, walls, fences, incloſures, encompaſſing or incloſing the ſaid premiſes or any part thereof, ways, pathways, &c. &c. To HAVE AND TO HOLD, the ſaid piece or parcel, &c. and all and ſingular other the ſaid premiſes hereby mentioned, or intended to be hereby granted and releaſed, and every part and parcel thereof, with their and every of their rights, members, and appurtenances, unto the ſaid *T. L.* &c. (*truſtees,*) their heirs and aſſigns, for ever, to the uſe of the ſaid *T. L.* (*truſtees,*) their heirs and aſſigns, for ever, in truſt, nevertheleſs, for the ſubſcribers for the time being, for eſtabliſhing and ſupporting of the ſaid hoſpital, as hereinafter mentioned or declared, and to, for, and upon no other uſe, truſt, intent, or purpoſe, whatſoever, abſolutely freed and diſcharged of and from the payment of the ſaid annuity or yearly rent charge of ——, and alſo of and from the payment of the ſaid principal ſum of ——, and the intereſt thereof, or either of them, or any part thereof, and alſo freed and diſcharged of and from all proviſos or conditions of redemption whatſoever. AND it is hereby declared and agreed, by and between all the ſaid parties to theſe preſents, and particularly the ſaid *X. U.* for the conſiderations aforeſaid, doth hereby

Habendum to ſuch truſtees.

In truſt for the ſubſcribers to the ſaid hoſpital.

Freed from the ſaid annuity and mortgage incumbrances.

Agreement that H. I ſhall ſtand poſſeſſed of the ſaid terms.

direct, declare, and appoint, that the ſaid *J. U.* his executors and adminiſtrators, ſhall and will from henceforth ſtand poſſeſſed of the reſidue and remainder of the ſaid term of 99 years, by the ſaid recited indenture, bearing date the — day of ——, in the year of our Lord ——, granted as aforeſaid, as to and concerning the ſaid piece or parcel of paſturage land and premiſes hereby granted or mentioned, or intended to be hereby granted and releaſed, with the appurtenances, in truſt for the ſaid *T. L.* (*truſtees*,) their heirs and aſſigns, and to attend the inheritance of the ſaid premiſes, and to protect the ſame from all manner of incumbrances. [Covenant from *X. U.* that he and the ſaid *J. U.* have done no act to incumber.] AND whereas by certain indentures of leaſe and releaſe, (alſo enrolled in his majeſty's ſaid Court of Common Pleas, at *Weſtminſter*,) bearing date reſpectively the — and — days of ——, which was in the year of our Lord ——, the releaſe being of five parts, and made, or mentioned to be made between the ſaid ſir *W. U.* and *W. U.* parties hereto, of the firſt part; *D. H.* and the ſaid *M.* the wife of the ſaid *H. L.* (*parties hereto*,) by her then name of *N. H* ſpinſter, the ſecond daughter of the ſaid *B. H.* of the ſecond part; the ſaid *B. M.* and *P. F.* of the third part; *G. T.* and *H. T.* eſq. of the fourth part; and ſir *W. J.* bart. and the ſaid *D. H.* of the fifth part; being or purpoſing to be the ſettlement made on the marriage of the ſaid *W. U.* party hereto, and the ſaid *M.* his wife, all that the diſſolved monaſtery, &c. with the appurtenances, (whereof the ſaid piece or parcel

DISCHARGE.

In truſt for the ſaid truſtees to attend the inheritance.

Recital of leaſe and releaſe, &c. whereby premiſes were veſted in truſtees of a marriage ſettlement to be ſold.

DISCHARGE. of paſturage lands, hereditaments and premiſes, hereinbefore deſcribed, and intended to be hereby granted and releaſed, were parcel,) were, together with divers other lands, tenements, hereditaments, and premiſes therein deſcribed, granted, and conveyed, unto the ſaid *B. M.* and *P. F.* their heirs and aſſigns, to the ſeveral uſes, upon the truſts, for the intents and purpoſes, and under and ſubject to the powers, proviſos, limitations, declarations, and agreements, thereby and hereby limited, expreſſed, declared and contained, of and concerning the ſame. In which ſaid indenture of releaſe and ſettlement, now reciting, is contained a proviſo, and it was thereby declared and agreed, that it ſhould and might be lawful to and for the ſaid *B. M.* and *P. F.* and the ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor, at any time or times within the ſpace of — years, to be computed from the day of the ſolemnization of the ſaid then intended marriage, by any deed or deeds, inſtrument or inſtruments, in writing, to be ſealed and delivered by them or him, in the preſence of, and atteſted by two or more credible witneſſes, to be enrolled in one of his majeſty's Courts of Record, at *Weſtminſter*, (with the conſent and approbation of the ſaid ſir *W. U.* and *W. U.* parties hereto,) and alſo of the ſaid *N. H.* ſignified in writing, under their reſpective hands and ſeals, for that purpoſe, to ſell, convey, and diſpoſe of any part or parts of the ſaid manors or premiſes thereby granted and releaſed, with the appurtenances, to any perſon or perſons, and his, her, or their reſpective heirs and aſſigns, for the moſt

money, or the beſt price or prices that could be reaſonably had or gotten for the ſame, ſo as that the monies to ariſe by ſuch ſale or ſales ſhould be paid and applied in and towards ſatisfying and diſcharging any mortgage or mortgages, then affecting the ſaid manors and premiſes thereby granted and releaſed, or any part thereof, or in or towards making good the ſum of ——, intended to be raiſed by ſale of certain other parts of the eſtate of the ſaid ſir *W. U.* and *W. U.* And by another indenture of bargain and ſale, of even date with the now recited indenture intended to be enrolled in the Court of Common Pleas at *Weſtminſter*, and to be made between the ſaid ſir *W. U.* and *H. E.* of the one part, and the ſaid *B. M.* and *P. F.* of the other part, ſo much of the ſaid amount or ſum as ſhould not be provided or raiſed by the ſale of the hereditaments compriſed in the ſaid indenture, upon payment of the monies to ariſe by ſuch ſale or ſales, it ſhould be lawful for the ſaid *B. M.* and *P. F.* and the ſurvivor of them, and the heirs and aſſigns of ſuch ſurvivor, to give and ſign one or more good and ſufficient receipt or receipts, or other diſcharge or diſcharges for the ſame, and when ſuch receipt or receipts, or diſcharges ſhould be given and ſigned as aforeſaid, the purchaſer or purchaſers of the ſaid premiſes ſo to be ſold, or any part thereof, his or their reſpective heirs or aſſigns, ſhould not afterwards be obliged to ſee to the application of ſuch purchaſe money, or be anſwerable or accountable for the loſs, miſapplication, or non-application thereof, or of any part thereof, and when any of DISCHARGE.

DISCHARGE.

the ſaid premiſes ſhould be ſo ſold or diſpoſed of, and conveyed as aforeſaid, the ſame ſhould from thenceforth be and remain to the only proper uſe and behoof of ſuch purchaſer or purchaſers, and of his or their heirs and aſſigns for ever, freed and abſolutely diſcharged of and from all and every the uſes, eſtates, truſts, powers, proviſos, declarations, and agreements hereinbefore limited, expreſſed, declared, and contained, of and concerning the ſame, ſubject only to ſuch leaſes as ſhould have been made thereof purſuant to the power thereinbefore for that purpoſe contained, as in and by the ſame recited indenture (relation being thereunto had) will more fully and at large appear. AND whereas the ſaid intended marriage between the ſaid *W. U.* party hereto, and *D. L.* took effect ſome ſhort time after the execution of the ſaid laſt recited indenture. AND whereas the ſaid *B. M.* and *P. F.* have not yet ſold or diſpoſed of a ſufficient part of the eſtates of the ſaid ſir *W. U.* and *H. E.* parties hereto, to enable them to pay and diſcharge the ſaid ſum of —, mentioned in the ſaid indenture laſt recited, and therefore they (with ſuch conſent and approbation as aforeſaid) have contracted and agreed with the ſaid *H. I.* for and on the behalf of the ſaid committee for the ſale or diſpoſal of the ſaid piece or parcel of paſture land, hereditaments, and premiſes, hereinbefore partly deſcribed, and the fee ſimple and inheritance thereof, with the appurtenances for the purpoſe and in manner hereinbefore mentioned. NOW THIS INDENTURE FURTHER WITNESSETH, that in purſuance of the ſaid contract and agreement, and for

Truſtees agree to ſell part of the ſaid ſettled premiſes to the truſtees of the intended hoſpital.

Indenture further witneſſeth.

effecting and performing the ſame, and alſo for and in conſideration of the ſum of ——, of lawful money of *Great Britain*, to the ſaid *B. M.* and *P. F.* *as truſtees as aforeſaid*, in hand well and truly paid by the ſaid *W. L. T.* &c. (*truſtees*) out of the moiety raiſed by the ſubſcription hereinbefore mentioned, at or before the ſealing or delivering of theſe preſents (with the conſent and approbation as well of the ſaid *X. U. B. U.* and *H. M.* as of the ſaid ſir *W. U.* party hereto, and *M.* his wife, (teſtified as aforeſaid) the receipt and payment of which ſaid ſum of ——, in full for the abſolute purchaſe of the ſaid piece or parcel of paſture land, hereditaments and premiſes mentioned or intended to be hereby granted and releaſed, and the fee ſimple and inheritance thereof, with the appurtenances of the ſaid *B. M.* and *P. F.* do hereby ſeverally confeſs and acknowledge, and thereof and therefrom, and from every part and parcel thereof do, and each of them doth, clearly and abſolutely, acquit, releaſe, and diſcharge the ſaid *W. L. T.* (*truſtees*) their heirs, executors, adminiſtrators and aſſigns, and every of them, for ever by theſe preſents, and alſo for and in conſideration of the ſum of 10s. a-piece of like lawful money of *Great Britain*, to the ſaid ſir *W. U.* and *H. E.* in hand, ſeverally and reſpectively well and truly paid by the ſaid *W. L. T.* &c. (*truſtees*) at or before the ſealing and delivery of theſe preſents, the receipt whereof is alſo hereby acknowledged, they the ſaid *B. M.* and *P. F.* by virtue and in further execution of the ſaid recited power and authority, and of all other powers and authorities contained

DISCHARGE.

The truſtees of the ſettlement.

DISCHARGE. in the ſaid indenture bearing date the ——— day of ———, in the ſaid year of our Lord ———, in this behalf, and thereby or otherwiſe given to or veſted in them the ſaid *B. M.* and *P. F.* or them in any manner enabling hereunto, have bargained, ſold, releaſed, and conveyed, directed, limited and appointed, and by this preſent deed in writing, by them ſealed and delivered, and atteſted by the two perſons whoſe names are intended to be hereupon indorſed, as witneſſes atteſting the ſame, (being two credible witneſſes,) do by and with the conſent and approbation of the ſaid ſir *W. U. H. E.* and *M.* his wife, ſignified by this writing, under their reſpective hands and ſeals, bargain, ſell, releaſe, direct, limit and appoint, and the ſaid ſir *W. U. H. E.* parties hereto, by virtue and in exerciſe of all and every power and powers, and authority or authorities whatſoever, reſerving to or veſted in them or either of them, or to them or either of them belonging, or in any manner enabling them thereunto, have and each of them hath directed, limited, and appointed, granted, bargained, ſold, releaſed, ratified, and confirmed, and by this preſent deed or writing, by them the ſaid ſir *W. U.* and *W. U.* parties hereto, ſealed and delivered in the preſence of the two perſons whoſe names are intended to be hereupon indorſed &c. (as before) do and each of them, doth direct, &c. unto the ſaid *W. L. T.* (the truſtees) in their actual and peaceable poſſeſſion, now being as aforeſaid, and to their heirs and aſſigns for ever, all &c. hereinbefore particularly mentioned and deſcribed, and every part and parcel thereof, with their and every of their rights, members and ap-

Limit and appoint.

To the truſtees of the hoſpital.

purtenances, and the reverſion &c. TO HAVE AND TO HOLD the ſaid piece or parcels of paſture lands, hereditaments, and all and ſingular other the ſaid premiſes hereby, or mentioned or intended to be hereby conveyed, and every part and parcel thereof, with their and every of their rights, members, and appurtenances unto the ſaid *W. L. T.* (*truſtees*) their heirs and aſſigns, to the uſe of them the ſaid *W. L. T.* (truſtees) their heirs and aſſigns, for ever freed, and abſolutely diſcharged, of and from all and every the uſes, eſtates, truſts, powers, proviſos, declarations and agreements in the ſaid indenture of releaſe, bearing date the —— day of ——, limited, expreſſed, declared and contained, of and concerning the ſaid piece or parcels of paſture land, hereditaments, and all and ſingular other, the premiſes with the appurtenances, hereby conveyed or intended ſo to be, nevertheleſs, upon the truſts hereinafter mentioned, reſpecting the ſame, and to and upon no other uſe, truſt, intent or purpoſe whatſoever. [Covenant from the truſtees of the ſettlement, *B. M.* and *P. F.* that they have done no act to incumber.] AND whereas in and by certain indentures of leaſe and releaſe (enrolled in his Majeſty's ſaid court of Common Pleas at *Weſtminſter*,) bearing date reſpectively, the —— and —— days of ——, which was in the year of our Lord ——, the releaſe being ſextepartite, and made or mentioned, to be made, between the ſaid ſir *H. E.* parties hereto, of the firſt part, *W. B. M.* ſpinſter, (therein particularly deſcribed) of the ſecond part, lord viſcount *L.* ſir *D. E.* and *N. C.* eſq.

DISCHARGE.

Habendum to ſuch truſtees for ever,

free from the uſes in the ſaid indenture of ſettlement.

Recital of marriage ſettlement.

DISCHARGE. of the third part, *C. R.* duke of ——, earl of ——, viſcount *O.* and baron ——, and *I. U.* gentleman, of the fourth part, ſir *G. C.* baronet, and *J. N.* eſquire of the fifth part, and *H.* lord *T.* and *H.* lord *A.* of ——, of the ſixth part, being, or purporting to be, the ſettlement made by the ſaid ſir *W. U.* previous to and in contemplation of a marriage, then intended between him and the ſaid *B. M. U.* one full equal undivided moiety or half part, the whole into two equal parts to be divided, of and in all that the diſſolved monaſtery or abbey of ——, otherwiſe ——, near the walls of the city of ——, of which the ſaid piece or parcel of lands and hereditaments herein before particularly deſcribed in part, was together with divers others manors, &c. then deſcribed, conveyed, ſettled, and aſſured, (from and after the ſolemnization of the ſaid then intended marriage, and the deceaſe of the ſaid ſir *W. U.* to the uſe of the ſaid *D. C. L.* of —, *W. U.* of —, *H. H. V. D. P.* and *I. U.* their executors, adminiſtrators and aſſigns, for a certain term of —— years, to be computed from the day of the death of the ſaid ſir *H. E.* without impeachment of waſte, upon truſt, (among others which have been ſince determined) by the ways and means therein mentioned, to levy, and raiſe the ſum of ——, for the portions of all and every the daughters and younger ſons of the ſaid ſir *W. U.* by the ſaid *B. M. U.* (other than an eldeſt or only ſon) equally to be divided between them (if more than one) payable with intereſt after the death of the ſaid ſir *H. E.* at ſuch time and in ſuch manner as therein is mentioned, and expreſſed, as in and by the ſaid laſt recited indenture of

releaſe, (relation being thereunto had) will more fully and at large appear. AND whereas the ſaid marriage between the ſaid ſir *H. E.* and the ſaid *W. M. B.* took effect ſome time after the execution of the ſaid laſt recited indentures, and ſhe the ſaid *W. M. B.* departed this life on or about the year of our Lord ——, leaving iſſue by the ſaid ſir *H. E.* one only ſon, the ſaid *W. U.* (party hereto) and three daughters, namely *X. U.* ſpinſter, and the ſaid *B. U.* and *M. U.* and no other iſſue. AND whereas the ſaid *J. U.* was the ſurviving truſtee of the ſaid term of 1000 years, and departed this life in or about the year of our Lord ——, having firſt duly made and publiſhed his laſt will and teſtament in writing, and thereof appointed *S. U.* his wife, the ſole executrix, who duly proved the ſame and took upon herſelf the burthen of the execution thereof, and the ſaid *S.* has ſince intermarried with ——, of the kingdom of ——, eſquire. AND whereas in and by a certain indenture tripartite, (alſo enrolled in his Majeſty's Court of Common Pleas, at *Weſtminſter*,) bearing date on or about the —— day of ——, which was in the year of our Lord ——, and made, or mentioned to be made between the ſaid *X. U.* therein deſcribed to be the eldeſt daughter of the ſaid ſir *W. U.* of the firſt part, the ſaid ſir *E. H.* and *W. U.* (parties hereto,) of the ſecond part, the ſaid *J.* and *S.* his wife of the third part, (after reciting as therein is mentioned,) the ſaid *J. U.* in conſideration of the ſum of ——, therein mentioned, to be paid to her by the ſaid ſir *W. U.* and *W. U.* (party hereto) did bargain, ſell, aſſign and relinquiſh unto the ſaid ſir *W. U.* and *W. U.* (parties hereto) and

DISCHARGE.

Of their being iſſue a daughter,

Recital of will of truſtees, appointing an executrix.

Recital of another bargain and ſale.

DISCHARGE

each of them, their heirs, executors, and adminiſtrators, and unto the ſaid *J.* and *S.* his wife, and the executors, adminiſtrators and aſſigns, of the ſaid *S.* as well the ſaid ſum of ——, being the one third part of the ſaid *J. U*'s. ſhare, of and in the ſaid ſum of ——, provided under the truſts of the ſaid term of —— years, for the portions of the daughters and the younger ſons of the ſaid ſir *W. U.* by the ſaid dame *B. U.* payable after the deceaſe of him the ſaid ſir *W. U.* as alſo the contingent right, claim, and intereſt of her the ſaid *J. U.* of, in, or to the then remaining part or parts of the ſaid ſum of ——, which might accrue to her the ſaid *J. U.* by the death or deaths of both or either of her ſiſters the ſaid *B. U.* and *M. U.* under the age of 21 years, and unmarried by virtue of the truſt of the ſaid term of —— years, and the ſaid *J. U.* did by the ſame indenture, direct and appoint, that the ſaid *J.* and *S.* his wife, and the executors, adminiſtrators, and aſſigns, of the ſaid *S.* and *J.* ſhould, from and immediately after the deceaſe of the ſaid ſir *W. U.* ſtand and be poſſeſſed of one undivided third part of the manors &c. compriſed in the ſaid term of —— years, to the intent that the ſame might attend the inheritance of the ſaid hereditaments and premiſes. AND whereas the ſaid *B. U.* and *M. U.* have both of them attained the age of 21 years, and have acquired and become entitled to a tranſmiſſible intereſt, each of them, in the ſums of —— and ——, being two third parts of the ſaid ſum of ——, provided under the truſts of the ſaid term of —— years, for the portions of the daughters and young-

Recital of daughters having attained the age of 21 years.

DISCHARGE.

er ſons of the ſaid ſir *W. U.* by the ſaid dame *B. M. U.* deceaſed, payable at the end or expiration of 6 months, next after the deceaſe of the ſaid ſir *W. U.* (party hereto). AND whereas the ſaid *B. U.* and *M. U.* as well at the requeſt of the ſaid *B. M.* and *F. P.* as of the ſaid ſir *W. U.* and *W. U.* (parties hereto) and in regard that the remainder of the eſtates compriſed in the ſaid term of —— years, and charged with the ſaid portions, are of much greater value, than will be ſufficient to pay and diſcharge their ſaid reſpective third parts or ſhares of and in the ſaid ſum of ——, as aforeſaid, have conſented and agreed, to releaſe, exonerate and diſcharge the ſaid piece or parcel of paſture lands, hereditaments, and premiſes, ſo ſold, and conveyed unto, and to the uſe of the ſaid *W. L. T.* ſir *W. U. J. U. R. H. K. T.* and *D. W.* their heirs and aſſigns, for the purpoſes of the ſaid intended hoſpital, as aforeſaid, of and from the payment of their ſaid reſpective portions under the truſt of the ſaid term of —— years, and all claims and demands for the ſame, or any intereſt in reſpect thereof. Now this indenture further witneſſeth, that for the conſiderations aforeſaid, they the ſaid *B. U.* and *M. U.* (at the ſpecial inſtance and requeſt as well of the ſaid *B. M.* and *P. F.* as of the ſaid ſir *W. U.* and *W. U.* (parties hereto) teſtified as aforeſaid) have and each of them hath remiſed, releaſed, diſcharged, and for ever quitted, claimed, extinguiſhed, and confirmed, and by theſe preſents, do, and each of them doth remiſe, releaſe, extinguiſh and for ever quit claim, and confirm unto the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.*

Agreement to releaſe premiſes ſo ſold and conveyed from the ſaid portions.

to the uſe of the ſaid truſtees, for the purpoſes of the ſaid intended hoſpital.

Indenture further witneſſeth.

Releaſe of the portions.

DISCHARGE.

and *D. W.* their heirs and aſſigns, all ſuch right, title, truſt, intereſt and demand whatſoever, both at law and in equity, or otherwiſe howſoever, as they the ſaid *B. U. M. U.* reſpectively, or each of them now have or hath, or at any time hereafter, can, ſhall, or may have, of, in, to, or out of the ſaid hereinbefore particularly deſcribed, and ſold, and conveyed, or intended to be conveyed premiſes, unto, and to the uſe of the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* their heirs and aſſigns, for the purpoſes of the ſaid intended hoſpital as aforeſaid, or any part or parcel thereof, for, or by reaſon or means, or on account of the ſaid two third parts or ſhares of them the ſaid *B. U.* and *M. U.* or either of them, of, in, or to the ſaid ſum of ——, or of the truſt of the ſaid term of —— years, in and by the ſaid recited indenture of releaſe or ſettlement, bearing date the ſaid —— day of ——, created or limited for raiſing the ſaid ſum of ——, for the portions of the daughters or younger ſons of the ſaid ſir *W. U.* by the ſaid dame *B. M. U.* his firſt wife, deceaſed, as aforeſaid, or by any other ways and means whatſoever, to the intent and purpoſe that the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* and their heirs and aſſigns, ſhall and may from henceforth be ſeiſed, of the ſaid &c. hereby conveyed or intended to be conveyed unto and to the uſe of the ſaid *W. L. T.* ſir. *W. U. J. U. R. H. J. N.* and *D. W.* their heirs and aſſigns, in truſt for the benefit of the ſaid intended ——, in manner aforeſaid, with their and every of their appurtenances, freed and abſolutely diſcharged of and from the payment of the ſaid parts

To the intent that the ſaid truſtees may ſtand poſſeſſed of the premiſes, in truſt for the benefit of the ſaid intended hoſpital.

and ſhares of them the ſaid *B. U.* and *M. U.* of and in the ſaid ſum of ——, provided under the truſts of the ſaid term of —— years as aforeſaid, and of, and from all actions and ſuits whatſoever, to be brought for the recovery or payment thereof, ſo that neither they the ſaid *B. U.* and *M. U.* their executors, adminiſtrators and aſſigns, or any of them, or the ſaid *J.* and *S.* his wife, her executors, adminiſtrators or aſſigns, or any other perſon or perſons in truſt, for them or any of them, or in the name, right or ſtead of any of them, ſhall or may by any ways or means whatſoever hereafter, have claim, challenge, or demand any eſtate, right, title, truſt, intereſt, ſum or ſums of money, claim, or demand whatſoever, of, in, to, or out of the ſaid piece or parcel of paſture land, &c. hereinbefore mentioned to be ſold, and conveyed, or intended to be conveyed, unto, and to the uſe of the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* their heirs and aſſigns as aforeſaid, or any part or parts thereof, but from all and every action, right, eſtate, title, truſt, intereſt, or demand, of, in, or to the ſame, or any part thereof, they and every of them ſhall be utterly excluded and barred by theſe preſents, and the ſaid *X. U. B. M.* and *P. F.* ſir *W. U.* and *W. U.* (parties hereto,) and *M.* his wife *B. U.* and *H. M.* for the conſiderations aforeſaid, do and each and every of them, doth direct, declare and appoint, that the ſaid *S.* and *A.* his wife, and the executors, adminiſtrators, and aſſigns of the ſaid *S. A.* ſhall, from henceforth and at all times hereafter, ſtand and be poſſeſſed of the ſaid term of 1000 years, as to and concerning the

DISCHARGE.

And the ſaid X. U. &c. do hereby declare that the ſaid S and A. his wife, ſhall ſtand poſſeſſed of the ſaid term of 1000 years, unto and to the uſe of the ſaid truſtees.

DISCHARGE. ſaid &c. ſo ſold and conveyed, or intended to be conveyed unto, and to the uſe of the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* their heir and aſſigns, as aforeſaid, In truſt for the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* their heirs and aſſigns, and to attend the inheritance of the ſaid 2-3rd parts and premiſes, and to protect the ſame from all meſne incumbrances.

free from incumbrances. AND the ſaid *J. N.* and *B. W.* for themſelves ſeverally and reſpectively, and for their ſeveral and reſpective heirs, executors, and adminiſtrators, do, and each of them doth covenant, promiſe, and agree to and with the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* their heirs and aſſigns, by theſe preſents, that they, the ſaid *B. U.* and *H. M.* have not, nor hath either of them, nor have the truſtees of the ſaid term of 1000 years, or any of them, or the ſaid *S.* and *A.* his wife, or either of them, by the direction and with the privity and conſent of them, the ſaid *B. U.* and *H. M.* or either of them, at any time heretofore made, done, committed, or wittingly or willingly ſuffered, any act, deed, matter, or thing, whatſoever, whereby, or by means whereof, the ſaid &c. ſo ſold and conveyed, or intended to be conveyed, unto and to the uſe of the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* their heirs and aſſigns aſaforeſaid, or any part or parcel thereof, is, are, can, ſhall, or may be, any ways impeached, charged, or incumbered, in title, charge, eſtate, or otherwiſe, howſoever. [*uſual Covenants*].

Covenant to convey to truſtees for the hoſpital. PROVIDED always and it is hereby agreed and declared by and between the ſaid parties hereto, that the ſaid *W. L. T.* ſir *W. U.*

J. U. R. H. J. N. and *D. W.* and the ſurvivors or ſurvivor of them, and the heirs of ſuch ſurvivor ſhall and will when thereunto required by the ſubſcribers for eſtabliſhing and ſupporting the ſaid intended county hoſpital for the time being, or the major part of them to be aſſembled at ſome public or general meeting of the ſaid ſubſcribers, in ſuch manner as counſel ſhall adviſe, well and ſufficiently convey and aſſure the ſaid, &c. hereby mentioned or intended to be hereby ſold and conveyed, and every part and parcel thereof with the appurtenances unto ſuch perſons and their heirs, as the ſaid ſubſcribers, or the major part of them as aforeſaid, ſhall nominate or appoint for that purpoſe ſo and in ſuch manner as that the ſame piece or parcel of paſture land and premiſes may be legally veſted in the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* and the ſurvivors and ſurvivor of them, and the ſaid new truſtees ſo to be nominated and appointed, and their heirs, to and for the uſes and purpoſes of the ſaid intended hoſpital in manner aforeſaid. AND that the truſtees for the time being to or in whom the freehold or inheritance of the ſaid land and premiſes ſhall come and be veſted, ſhall alſo from time to time in like manner grant and convey the ſame land and premiſes unto other truſtees, and their heirs, to the end that the freehold and inheritance of the ſaid land and premiſes may never remain veſted in the heirs of any ſingle ſurviving truſtee, any thing herein contained to the contrary notwithſtanding. AND WHEREAS in and by certain indentures of leaſe and releaſe, bearing date reſpectively the — and —

DISCHARGE.

Recital of indenture of leaſe and releaſe.

DISCHARGE. day of —, which was in the year of our Lord— thereof being ſextipartite, and made or mentioned to be made between ſir *J. U.* bart. deceaſed, (the ſon and heir of ſir *W. U.* bart. deceaſed) of the 1ſt part, *W. U.* eſq. (eldeſt ſon and heir apparent of the ſaid ſir *J. U.*) of the 2d part, *B. A. F.* ſpinſter, and *B. M.* ſpinſter, (therein ſeverally deſcribed) of the 3d part, the right hon. *E. H. G.* of ——— bart. *J. U.* gent. *B. A.* and *W. I.* gent. of the 4th part, *T. U.* gent. of the 5th part, and *T. T.* gent. of the 6th part, and a common recovery duly ſuffered purſuant thereto, in or as of Trinity term in the —— year of the reign of his late majeſty King George the 3d, one full equal undivided moiety or half part, the whole into two equal parts to be divided of and in, &c. was together with divers manors, &c. therein mentioned and deſcribed, conveyed, ſettled, and aſſured to the uſe of the ſaid, &c. their executors, adminiſtrators, and aſſigns, for the term of —— years, to be computed from the—day of March, then laſt paſt. UPON truſt by the ways and means therein mentioned to raiſe and borrow the ſeveral principal ſums of £— and £—— making together the ſum of £——, for the payment and ſatisfaction of the then debts of the ſaid *W. U.* (party thereto) the father of the ſaid ſir *W. U.* (party hereto) in ſuch manner as is therein mentioned and directed, as in and by the ſaid laſt recited indenture of releaſe, relation being thereunto had may more fully and at large appear.

Of death of truſtees. AND whereas the ſaid *B. A.* ſurvived his co-truſtees the ſaid *J. U.* and *I. W.* and is ſince dead;

Of order in chancery. AND whereas by an order of the High Court of Chan-

cery, made in or about the year of our Lord, —— in a certain cauſe then depending in the ſaid Court, to acknowledge the truſts of the ſaid laſt mentioned term of 1000 years, wherein the ſaid *B. A.* the ſurviving truſtee of the ſaid term was plaintiff, and ſir *W. U.* (party hereto) was the defendant: IT was ordered (among other things) that the Accomptant-General of the ſaid Court ſhould transfer a component part of a certain ſtock in the Old South-Sea annuities, ſtanding in the name of the ſaid Accomptant-General. IN truſt in another cauſe in the ſaid Court, when the ſaid ſir *W. U.* (party hereto) was plaintiff, and ſir *E. D.* bart. and *J. U.* eſq. (adminiſtrators with the will annexed of the ſaid ſir *J. U.* deceaſed during the minority of the ſaid ſir *W. U.* (party hereto) were the defendants, and which ſtock was purchaſed with the reſidue of the perſonal eſtate of the ſaid ſir *J. U.* deceaſed) to the credit of the firſt mentioned cauſe in diſcharge of the ſum of —— — - reported to be then due to the plaintiff, *B. A.* for principal and intereſt upon the ſaid term of 1000 years. AND whereas ſuch ſtock was afterwards accordingly tranferred, whereby the truſt of the ſaid term became ſatisfied: but the ſaid term of 1000 years has never been ſurrendered or aſſigned, and is yet out ſtanding in the perſonal repreſentative of the ſaid *B. A*: AND whereas by reaſon that it is not certainly known who are the perſons in whom the ſaid laſt mentioned term of 1000 years is veſted, the ſame cannot now be aſſigned, in truſt for the ſaid *W. L. T. E. S. K T. H. H. O. T. K.* and *D. W.* and their heirs. And

DISCHARGE.

Recital that perſons cannot be found in whom the ſaid term of 1000 years is veſted.

DISCHARGE.

And therefore it hath been agreed to make ſuch declaration and appointment as hereinafter mentioned.

therefore it hath been agreed to make ſuch declaration and appointment touching the ſaid term as hereinafter is mentioned. Now this indenture further witneſſeth, that for the conſiderations aforeſaid, and for the further and better aſſuring of the ſaid, &c. hereinbefore deſcribed, and ſold and conveyed, or intended to be conveyed unto and to the uſe of the ſaid *W. L. T. K. E. S. G. U. H. O. K. T.* and *D. W.* their heirs and aſſigns, in truſt for the ſaid intended hoſpital as aforeſaid, the ſaid ſir *W. U.* and *W. U.* (parties hereto) and *L.* his wife and alſo the ſaid *X. U. B. M.* and *P. T.* do, and each and every of them doth hereby declare, direct, and appoint, that the perſon or perſons, to or in whom the ſaid laſt mentioned term of —— years is now legally come or veſted, his, her, or their executors, adminiſtrators, and aſſigns, ſhall from henceforth, and will as to the ſaid undivided moiety of, &c. hereby conveyed, or intended ſo to be, ſtand poſſeſſed of the ſaid term of —— years, in truſt for the ſaid *W. L. T.* ſir *W. U. J. U. J. N.* and *D. W.* their heirs and aſſigns to the intent, that the ſaid term of 1000 years ſhall and may attend, wait upon, and go along with the freehold and inheritance of the ſaid undivided moiety, or half part of, and in the ſaid, &c. hereinbefore deſcribed, and guard and protect the ſame from all meſne charges and incumbrances whatſoever, if any ſuch there be. [*Covenant for the production of title deeds.*] AND laſtly the ſaid *W. L. T.* ſir *W. U. J. U. R. H. J. N.* and *D. W.* do hereby for themſelves, and their heirs ſeverally acknowledge and declare, that they and the ſurvivors and ſurvi-

Declaration that the perſons in whom the term is now veſted ſhall ſtand poſſeſſed of the ſame, in truſt for the truſtees of the hoſpital.

Covenant from truſtees that they will ſtand poſſeſſed of premiſes in truſt for the ſubſcribers for eſtabliſhing the ſaid county hoſpital.

vor of them and his heirs, ſhall and will at all times for ever hereafter ſtand and be ſeiſed of the ſaid piece or parcel of paſture land, hereby conveyed or intended ſo to be, with the appurtenances. In truſt for the ſubſcribers for the time being for eſtabliſhing and ſupporting the ſaid county hoſpital, and to let, ſet, enjoy, and diſpoſe of the ſame, from time to time for ever hereafter, to ſuch perſon or perſons, and for ſuch uſes, intents, and purpoſes, and in ſuch manner and form as the ſaid ſubſcribers for the time being, or any committee or governors to be elected, nominated, or appointed by them, or the major part of ſuch ſubſcribers, committee, or governors, aſſembled at a public or general meeting to be holden for that purpoſe after 10 days notice at leaſt, given in one or more of the public newſpapers publiſhed or circulated in the county of —— and city of ————, ſhall from time to time order, direct, or appoint, and to, for, and upon, or other uſe, truſt, intent, or purpoſe whatſoever. END. SUIT.

Operative part of an Indenture of Appointment of Truſt monies to carry into Execution an Agreement, in order to put an end to proceedings in Chancery. (*a*)

Now this indenture witneſſeth, that for and in conſideration of the premiſes, and in particular of the ſaid ſum of £——, ſo due from the ſaid *B. A.* to the ſaid *D. C.* for principal and intereſt,

(*a*) See ante Vol. 1. p. 40, 41.

END SEAL. under or by virtue of his ſaid above in part recited ſecurity, and alſo, in conſideration of the ſaid recited propoſal and agreement, and for carrying the purpoſes thereof into execution, and likewiſe in conſideration of 5*s*. She the ſaid *B. A.* by virtue and in purſuance, and execution of the power and authority given or reſerved to her by ſaid recited indenture of ſettlement of the ſaid —— day of ——, and by virtue and in purſuance and exerciſe of all and every other power and authorities to her reſerved or given, or in her veſted, or her thereunto any wiſe enabling, hath directed, limited, and appointed, and by this, &c. doth direct, limit, and appoint unto the ſaid *D. C.* his executor, adminiſtrator and aſſigns, immediately upon and from and after the death of her the ſaid *B. A.* all that the ſaid ſum of ——, 3-per cent conſ. bank annuities, ſo ſtanding in the name of the ſaid accountant general as aforeſaid, and purchaſed with part of ſaid principal ſum of ——, mentioned in and ſettled by the ſaid indenture of ſettlement of ſaid — day of March — and alſo, ſaid ſums of —, and —, other parts of the ſaid principal ſum of —, which by the ſaid recited decree or decretal order of the — of —, were ordered and directed to be paid into the bank, with the privity of the accountant general, to the credit of the ſaid cauſe, by the ſaid *E. D.* and *H. T.* and alſo all and every other ſum and ſums of money, which ſhould, or might be recovered from ſaid ——, or his eſtate, and effects, for or in reſpect of the remainder of ſaid principal ſum of ——, ſo originally ſettled by ſaid indenture of ——, of ——, as aforeſaid, or

Appointment of truſt, monies, in purſuance of power.

intended to be, and alſo, all ſtock, annuities, or other ſecurities in which ſaid ſeveral ſums of —, and —, and ſuch other ſum or ſums as aforeſaid, ſhould or might be laid out or inveſted in purſuance of the ſaid decree, and order of the ſaid court, or of any other order or decree, to be made by the court in that behalf, and all the right and intereſt, benefit and advantage, property, claim, and demand whatſoever, of her the ſaid *B. A.* of, into, or out of, the ſaid truſt, monies, annuities, and ſtock, or any of them, or any part thereof, To hold, receive, take and enjoy all, and every the ſaid ſums of money, bank annuities, and ſtock, funds, and other the premiſes aforeſaid, unto the ſaid *D. C.* his executors, adminiſtrators, and aſſigns, immediately upon and from and after the death of the ſaid *B. A.* as and for his, and their own proper monies, property, and effects abſolutely, freed and diſcharged of and from all right or equity of redemption, in or to the ſame money, annuities, ſtock funds, and premiſes, or any part thereof, under or by virtue of ſaid deed of appointment of the ſaid —— day of ——, or otherwiſe, however, ſubject nevertheleſs to the payment out of the ſame principal monies, annuities, and ſtocks, or funds of all ſuch coſts, as are therein before mentioned, and declared, and agreed, directed and appointed, ſhould be forthwith and in the firſt inſtance paid thereout as aforeſaid, and alſo ſubject to the coſts of the ſaid ſuit ſo inſtituted by the ſaid —— and —— his wife as herein before recited or taken notice of as aforeſaid. And for the purpoſe of confirming and eſtabliſhing the ſame, and the agreements, and

END SUIT.

Diſcharged from all equity of redemption, &c.

Subject nevertheleſs to coſts, &c.

END SUIT.

appointments thereby made in further purſuance of the ſaid recited propoſal and agreement, and for effectuating the ends or purpoſes thereof. It is hereby declared and agreed, by and before the ſaid *B. A.* and *D. C.* that the ſaid *D. C.* ſhall and will forthwith cauſe to be filed a proper ſupplemental bill in the ſaid ſuit ſo inſtituted by him, againſt the ſaid *B. A.* and ſuch other parties as may be, or thought neceſſary for the purpoſe of having the ſame, and the agreement, and appointment hereby made or intended to be made, eſtabliſhed, by or under the decree of the ſaid court, in ſuch manner and form in all reſpects, and for ſuch other relief in the premiſes as the counſel of the ſaid *D. C.* ſhall adviſe or judge neceſſary for the accompliſhing the purpoſes aforeſaid, to which ſupplemental bill, and alſo to which ſaid original bill ſo inſtituted by the ſaid *D. C.* as aforeſaid, ſhe the ſaid *B. A.* ſhall and will forthwith appear, and put in her anſwer, and thereby admit the due execution of the ſaid deed, and the agreements and appointments thereby made, and alſo the ſaid propoſal and agreements, and all other the matters and things ſtated and charged, in or by the ſaid original bill; and to be ſtated and charged in the ſaid ſupplemental bill, and all other matters neceſſary to be admitted by her for accompliſhing the purpoſes aforeſaid, and that ſhe the ſaid *B. A.* ſhall and will afterwards upon the hearing of the ſaid cauſe, or upon any application to be made to the court by the ſaid *D. C.* his executors, adminiſtrators, or aſſigns therein, or in the ſaid ſuit ſo inſtituted by them the ſaid *B. I.* and *B. A.* his

Declaration and agreement, that parties will cauſe a ſupplemental bill to be filed.

And appear to the ſame, put in an anſwer and admit the charges &c.

And join in all neceſſary application.

wife, by motion, petition, or otherwiſe for the effectuating the ends or purpoſes aforeſaid, or any of them, or in any wiſe relating thereto, appear in court in perſon (if neceſſary), or by counſel, and conſent to ſuch application, provided the ſame does not effect or prejudice the ſaid *B. A's* right or intereſt in or to the dividends of the ſaid truſt monies, or any part thereto for her life, and ſo directed to be paid for her ſeparate uſe as aforeſaid, and alſo, ſhall and will join and concur in all ſuch other acts and bargains as ſhall or may be neceſſary for ſubſtantiating the title of the ſaid *D. C.* her executors, adminiſtrators, or aſſigns, under or by virtue of the ſaid deed, in or to all the ſaid principal truſt monies, and truſt funds upon the death of the ſaid *B. A.* And it is hereby further agreed and declared by and between the ſaid *B. A.* and *D. C.* that the ſaid ſum of ——, which the ſaid *D. C.* has been at or put unto for ſuch coſts as therein mentioned, and alſo, all coſts as well of the ſaid deed as of the ſaid *D. C.* his executors, adminiſtrators, and aſſigns, and of the ſaid *B. A.* in and about the ſuit and proceedings aforeſaid, and all other proceedings which might be thought neceſſary for carrying the ſaid deed and the intentions of the ſaid parties into execution, ſhall be forthwith, and in the firſt place in the lifetime of her the ſaid *B. A.* paid out of the ſaid principal truſt monies, and truſt funds thereby limited and appointed or intended ſo to be, and that each of the ſaid parties ſhall and will conſent, and agree thereto in court at the hearing of the ſaid cauſe, either in perſon or by counſel, or any other

END SUIT.

For effectuating theſe premiſes.

Further declaration as to coſts.

END SUIT.

application to the ſaid court, which ſhould or might be made in either of the aforeſaid ſuits, or do, perform, or execute any other act or acts, deed or deeds, or matter, or thing which ſhall, or may be thought neceſſary for that purpoſe. And further, they ſaid *B. A.* and *D. C.* do and each of them doth hereby impower the ſaid *T. I.* to prepare and file, or cauſe to be prepared and filed, a ſupplemental bill with the anſwer of the ſaid *B. A.* thereto, and to the ſaid original bill filed by the ſaid *D. C.* in the manner, and for the purpoſes aforeſaid; and to proſecute the ſame and all ſuits and proceedings neceſſary for the purpoſes aforeſaid with effect, and to employ ſuch counſel therein as the ſaid *I. T.* ſhall think fit for all or any of the purpoſes aforeſaid, and to appear in court, and to admit all ſuch matters as will on the part of the ſaid *D. C.* his executors, adminiſtrators, and aſſigns, as of the ſaid *B. A.* as ſhall be thought proper or neceſſary for the effectuating all and every of the purpoſes aforeſaid, and to do all further acts, matters, and things requiſite and neceſſary in or touching the premiſes. And laſtly, he the ſaid *D. C.* for and in conſideration of the premiſes, and in particular of the ſaid appointment ſo hereby made to him the ſaid *D. C.* his executors, adminiſtrators, and aſſigns, of all the ſaid principal truſt monies, and truſt funds, upon the death of the ſaid *B. A.* as aforeſaid, hath conſented, declared, and agreed, and by theſe preſents doth conſent, declare, and agree to and with the ſaid *B. A.* and her aſſigns, that in caſe the ſaid court ſhall upon the hearing of the ſaid cauſe ſo

Power to ſolicitor to file bill,

Agreement by the other party to perform his part of the contract.

instituted by the said *D.C.* as aforesaid, think fit to establish the said deed, and the agreements, and appointments hereby made, and decree the said principal trusts, monies, and trust funds to be paid to her the said *D. C.* accordingly, upon the death of the said *B. A.* then and in such cases but not otherwise, all the said interests and dividends of all the said trust monies, and trust funds so hereby limited and appointed as aforesaid, after and subject to the payment of the costs aforesaid, shall in the mean time be paid to, and received unto the said *B. A.* for and during the time of her natural life, to and for her own sole and separate use and benefit, any thing in the said above in part recited deed of appointment of the said — day of ——, to the contrary, in any wise notwithstanding. IN WITNESS, &c. TRUSTEES.

Deed of Appointment of new Trustees, (under a Power in a Marriage Settlement for that Purpose.) in the room of a surviving Trustee resigning.

This indenture between *W. H.* of ——, in the county of ——, esquire, of the first part, *M. V.* now or late of ——, in the county of ——, esq. and *M. R.* of ——, in the county of ——, clerk, of the second part, *I. W.* of ——, in the said county of ——, esquire, and *E.* his wife, of the third part, and the most noble *C. W. H.* duke of —, and *P. I. I.* of —, in the parish of —, in the county of —, esq. of the fourth part. WHEREAS [Recital of the indentures of the settlement im- Trustees.

TRUSTEES. powering the preſent appointment,] (*a*). AND it is thereby alſo declared and agreed, that if the ſaid *T. I.* and *W. H.* or *M. V.* and *H. R.* or any or either of them, or any ſucceeding truſtee or truſtees, to be nominated in their or any of their ſtead and place as therein and hereinafter is mentioned, ſhould at any time or times thereinafter during the lives of the ſaid *I. W.* and *E.* then *E. H.* or during the life of the ſurvivor of them, or at any time or times within the ſpace of 20 years, to commence and be computed from the deceaſe of ſuch ſurvivor, ſhould he happen to die, or deſire to be diſcharged from the ſaid truſts hereby in them reſpectively repoſed, then and ſo often it ſhould and might be lawful for the remaining other or others of the ſaid truſtees, by any deed or deeds, writing or writings, under their or his reſpective hands and ſeals, or hand and ſeal, atteſted by two or more credible witneſſes from time to time, and as often as by ſuch deaths or reſignations of the ſaid truſtees, or any of them, it might become neceſſary or convenient, to nominate or appoint with the conſent of the ſaid *W. I.* and *E.* then *E. H.* or the ſurvivor of them, or the executors or adminiſtrators of ſuch ſurvivor, teſtified by ſome writing ſigned by their, his, or her own hands or hand, ſuch other perſon or perſons to be a truſtee or truſtees, to act in the ſaid ſeveral and reſpective truſts, in the room or place of the truſtee or truſtees ſo dying or deſiring to be diſcharged, and that where any of the ſaid then preſent truſtees ſhall deſire to be diſcharged from the truſts,

Recital of marriage ſettlement.

(*a*) See ante, p. 5, 6.

it ſhould and might be lawful to and for him and them to reſign, releaſe, aſſign, relinquiſh and give up his and their truſt, eſtate and intereſt in the ſaid ſeveral premiſes thereby granted and releaſed to the other truſtees or truſtee, and that every new truſtee to become intereſted in the ſaid premiſes, together with the former truſtees and truſtee, other than ſuch as ſhould have deſired to be diſcharged, and who ſhould have relinquiſhed, releaſed, or aſſigned his or their truſt, eſtate, and intereſt as aforeſaid, ſhould in like manner have full power and authority, as often as it ſhould be neceſſary or requiſite to ſucceed in the ſaid truſts, and to ſtand and be truſtee and truſtees for the purpoſes aforeſaid, in the room and ſtead of ſuch former truſtee or truſtees ſo dying or deſiring to be diſcharged from the aforeſaid truſts, and it is hereby alſo declared, that from and after every ſuch nomination and appointment, all ſuch acts, deeds, matters, or things, ſhould be done, executed, and performed, as ſhould be neceſſary or adviſable for veſting the ſeveral premiſes thereby releaſed, or intended ſo to be, as well in the remaining truſtee or truſtees, as in the new truſtee or truſtees ſo to be nominated as aforeſaid, ſo that ſuch remaining truſtee or truſtees might, together with the new truſtee or truſtees, become jointly ſeiſed and poſſeſſed of, or intereſted in the ſame premiſes, upon the truſts, and for the intents and purpoſes, and ſubject to the proviſos, powers, declarations, and agreements, thereinbefore expreſſed, or by reference mentioned and declared of and concerning the ſame premiſes, or ſuch of them as ſhould be then exiſting undeter- TRUSTEES.

TRUSTEES.

mined, or capable of taking effect, or of being performed, or as near thereto as might be, as in and by the ſaid indenture of leaſe and releaſe, reference being thereunto reſpectively had, will more fully appear. AND whereas the marriage between the ſaid *S. W.* and *E.* now his wife, then *H. E.* was had and ſolemnized ſoon after the date and execution of the ſaid indenture of releaſe. AND whereas the ſaid *I. I.* died ſome time ſince, and the ſaid *T. I.* and *W. H.* did after the death of the ſaid *I. I.* with the conſent and approbation of the ſaid *I. W.* in purſuance and part execution of the power or authority, in and by the ſaid indenture of ſix parts in them the ſaid *T. I.* and *W. H.* for that purpoſe, veſted, ſell, and diſpoſe of all the ſaid meſſuages, lands, hereditaments, and premiſes in the ſaid county of ——, for the ſum of ——, and in purſuance of the truſts repoſed in them by the ſaid indenture, and with the like conſent and approbation, lay out, and inveſt the ſaid ſum of ——, in the purchaſe of ——, three per cent bank annuities, upon the truſts in and by the ſaid indenture of ſix parts mentioned and expreſſed, of and concerning the money ariſing by ſale of the ſaid meſſuages, lands, hereditaments and premiſes. AND whereas the ſaid *T. I.* died in the month of ——, in the year of our Lord ——, and the ſaid £ —— bank annuities, and all and every the eſtates, intereſt, truſts, and powers which in and by the ſaid indenture of ſix parts were veſted in the ſaid *T. I.* and *W. H.* did on the death of the ſaid *T. I.* become ſolely veſted in the ſaid *W. H.* by ſurvivorſhip. AND whereas the ſaid *W. H.* did afterwards

Recital of ſale of part of ſettled eſtates and inveſtment of the produce in the funds.

Of ſale of ſtock, and paying mortgage therewith.

with the conſent and approbation, and by the direction of the ſaid *I. W.* and *E.* his wife, ſell out the ſaid ſum of ——, bank annuities, and applied the money ſo ariſing, by the ſame conſent, approbation, and direction, in diſcharge of an incumbrance on the —— eſtate. And whereas the ſaid *W. H.* being advanced in years, is deſirous of being diſcharged of and from all and every the truſts, and powers, in and by the aforeſaid indenture of ſix parts, veſted in the ſaid *T. I.* and *W. H.* and which on the death of the ſaid *T. I.* are become ſolely veſted in him the ſaid *W. H.* by ſurvivorſhip. Now therefore this indenture witneſſeth, that by virtue of, and in purſuance and execution of the power or authority, in and by the ſaid indenture of ſix parts, for this purpoſe given to and now veſted in the ſaid *W. H.* or in him and the ſaid *M. V.* and *H. R.* and in purſuance of all and every power or authority in any wiſe enabling him or them, hereunto, and in exerciſe and execution thereof, he the ſaid *W. H.* and alſo the ſaid *M. V.* and *H. R.* hath and have with the conſent and approbation of the ſaid *I. W.* and *E.* his wife, teſtified by their ſeverally ſigning and ſealing theſe preſents, nominated and appointed, and by this preſent deed in writing, ſealed and delivered by the ſaid *W. H. M. V.* and *H. R.* in the preſence of the two credible perſons whoſe names are intended to be hereupon wrote or indorſed, as witneſſes atteſting the ſame, doth, and do with the conſent and approbation of the ſaid *I. W.* and *E.* his wife, teſtified as aforeſaid, nominate and appoint the aforeſaid *C. W. H.* duke of ——, and *P. I. I.* to be truſtees in the room

TRUSTEES.

Recital of deſire to be diſcharged from the truſts.

Now, therefore, this indenture witneſſeth, that

the ſurviving truſtee, &c.

do appoint new truſtees.

TRUSTEES.

and ſtead of the ſaid *T. I.* and *W. H.* to act in the ſeveral truſts which were in and by the ſaid indenture of ſix parts, veſted in the ſaid *T. I.* and *W. H.* and are now ſolely veſted in the ſaid *W. H.* by ſurvivorſhip. AND this indenture alſo witneſſeth, that for and in conſideration of the ſum of ——, of lawful money of *Great Britain*, to the ſaid *W. H.* well and truly paid by the ſaid *C. W. H.* duke of ——, and *P. I. I.* at or immediately before the ſealing and delivering theſe preſents, the receipt whereof is hereby acknowledged, he the ſaid *W. H.* hath, as far as he lawfully may and can be given and granted, and by theſe preſents doth, as far as in him is, grant, bargain, ſell, releaſe, reſign, and give up, unto the ſaid *C. W. H.* duke of —, *P. I. I.* their heirs and aſſigns, all and ſingular the aforeſaid manors or lordſhips, borough, meſſuages or tenements, cottages, farms, lands, tolls, rents, advowſons, and hereditaments, and parts or ſhares of meſſuages and hereditaments, ſituate, lying, and being, and ariſing in the ſaid counties of —— and ——, which are in and by the aforeſaid indenture of ſix parts, of the —— day of ——, releaſed, or mentioned, or intended to be releaſed, with their reſpective appurtenances, and the reverſion and reverſions, remainder and remainders, rents, iſſues and profits of all and ſingular the ſame premiſes, and all the eſtate, right title, intereſt, and poſſibility, whatſoever, of him the ſaid *W. H.* of, in, or to the ſame manor or lordſhip, borough, meſſuages, or tenements, cottages, farm, lands, tolls, rent, advowſon, and hereditaments, and parts or ſhares of meſſuages

Now this indenture alſo witneſſeth, that ſuch ſurviving truſtee grants, aſſigns, &c. the truſt premiſes, to the new truſtees.

and hereditaments, and every or any of them, and every or any part or parcel thereof, all which ſaid premiſes are now in the actual poſſeſſion of the ſaid duke of ——, and *P. I. I.* by virtue of a bargain and ſale to them thereof made, &c. To HAVE AND TO HOLD all the ſaid manors, or lordſhips, borough, meſſuages or tenements, cottages, farms, lands, tolls, rents, advowſons, and hereditaments, and parts or ſhares of meſſuages and hereditaments, with their reſpective appurtenances, unto the ſaid *C. W. H.* duke of ——, and *P. I. I.* and their heirs, for and during all ſuch eſtate and intereſt, as he the ſaid *W. H.* hath, or is entitled to therein, by virtue of, or under the ſaid indenture of ſix parts; but nevertheleſs, to, for, and upon ſuch and the ſame uſes, truſts, intents, and purpoſes, and ſubject to, with, and under the ſame powers of ſale and exchange, and other powers and proviſos, as are in and by the ſame indenture limited, declared, and expreſſed, of and concerning the ſaid hereditaments and premiſes, thereby limited, unto or to the uſe of the ſaid *T. I.* and *W. H.* and their heirs, either for the purpoſe to preſerve the contingent uſes and eſtates, as hereinbefore is mentioned, or for any other intent or purpoſe whatſoever, and to the end and intent that the ſaid *C. W. H.* duke of ——, and *P. I. I.* and the ſurvivor of them, and the heirs of ſuch ſurvivor, may be enabled to perform and execute all ſuch truſts, and exerciſe all ſuch powers of ſale and exchange, and other powers, proviſos, declarations, and agreements, as were in and by the ſaid indenture of ſix parts,

TRUSTEES.

To hold for and during the eſtate and intereſt of the ſaid W. H. truſtee ſo aſſigning.

Upon the truſts of the ſettlement.

TRUSTEES.

veſted in the ſaid *T. I.* and *W. H.* and are now ſolely veſted in him, or capable of being exerciſed by the ſaid *W. H.* by ſurvivorſhip, by and with ſuch conſent and approbation as aforeſaid, ſo far as the nature and circumſtances of the caſe will permit. And the ſaid *W. H.* doth hereby for himſelf, his heirs, executors, and adminiſtrators, covenant, promiſe, and agree, to and with the ſaid *C. W. H.* duke of ——, and *P. I. I.* and their heirs, that he the ſaid *W. H.* hath not at any time heretofore, either alone or jointly with the ſaid *T. I.* deceaſed, or any other perſon or perſons, made, done, committed, or executed, any act, deed, matter, or thing whatſoever, whereby, or by reaſon or means whereof the ſaid manors or lordſhips, borough, meſſuages, or tenements, cottages, farms, lands, tolls, rents, advowſon, and hereditaments, and parts or ſhares of meſſuages and hereditaments, hereby granted and releaſed, or mentioned, or intended ſo to be, or any of the contingent uſes and eſtates, in and by the ſaid indenture of ſix parts, limited and created, of the ſame manors or lordſhips, borough, meſſuages or tenements, cottages, farms, lands, tolls, rents, advowſon, and hereditaments, and parts or ſhares of meſſuages and hereditaments, or any of them, are or is defeated or deſtroyed. In witneſs, &c.

Covenant that the reſigning truſtee hath done no act to incumber.

Appointment by Widow and Children, of a new Truſtee, (under the Will of their Father deceaſed,) in the Room of a preſent Truſtee, partially *reſigning his Truſts.*

To all whom theſe preſents ſhall come, *T. E.* of ——, in the county of ——, widow and relict, and alſo an executrix and a legatee named in the laſt will and teſtament, and codicils of the rev. *T. I.* late rector of the pariſh of ——, in the ſaid county of ——, deceaſed, *T. I.* of ——, in the county of ——, clerk, *D. W.* of ——, in the county of ——, clerk, *B. I.* of ——, in the ſaid county of ——, eſq. and *I.* his wife, the rev. *R. T.* of ——, in the county of ——, clerk, and *D.* his wife, ſir *B. I.* of ——, in the ſaid county of ——, bart. and dame *F.* his wife, *T. I.* of ——, in the ſaid county of ——, clerk, and *W. T.* of ——, aforeſaid, eſq. which ſaid *T. I.* is the eldeſt ſon and heir of the ſaid *T. I.* deceaſed, and the ſaid *T. D.* the wife of the ſaid *D. B.* the wife of the ſaid *R. T.* dame *F.* the wife of the ſaid ſir *B. I.* *T. I.* party hereto, and *W. T.* are the only daughters and younger ſons of the ſaid *T. I.* deceaſed, living at the time of his death, alſo *T. I.* of the pariſh of ——, aforeſaid, gent. and *B. P.* of the pariſh of ——, in the ſaid county of ——, eſq. deviſees in truſt, and executors named in the laſt will and teſtament and codicils of the ſaid *T. I.* ſend greeting. WHEREAS the ſaid *T. I.* deceaſed, duly made and publiſhed his laſt will and teſta-

Parties.

Recital of will of S. T. deceaſed.

TRUSTEES.

ment in writing, bearing &c. and the ſaid teſtator did by his ſaid will declare, that in caſe they the ſaid *T. I.* and *B. P.* or either of them ſhould, die, or deſire to be diſcharged from the truſts thereby in them repoſed, at any time before the ſaid truſts ſhould be fully executed and performed, then and in either of the ſaid caſes, when and ſo often as the ſame ſhould happen, it ſhould and might be lawful to and for his ſaid wife and children, or the ſurvivor or ſurvivors of them, notwithſtanding the minority (*a*) of either of them, by writing under their reſpective hands, atteſted by two or more credible witneſſes, to nominate, ſubſtitute, or appoint any other perſon or perſons, to be a truſtee or truſtees, for the purpoſes aforeſaid, in the place or ſtead of ſuch former truſtee or truſtees, and ſo from time to time, when and ſo often as there ſhould be occaſion to nominate any other perſon or perſons to be a new truſtee or truſtees, and that when and ſo often as any new truſtee or truſtees ſhould be nominated or appointed as aforeſaid, all and ſingular the freehold, copyhold, and perſonal eſtates thereby deviſed and bequeathed to his ſaid truſtees as aforeſaid, or ſo much thereof as ſhould be then veſted in them, or to which they ſhould be entitled, and the ſtocks, funds, and ſecurities, wherein any part of his ſaid perſonal eſtate not then applied ſhould be then inveſted, ſhould thereupon with all convenient ſpeed, be conveyed, aſſigned, and transferred, ſo and in ſuch manner as that the ſame ſhould be effectually veſted in the ſurviving or continuing truſtee, and ſuch new truſtee or truſtees, upon

(*a*) *See ante*, P. 10.

the truſts thereinbefore expreſſed, and that every ſuch new truſtee or truſtees, ſhould and might in all things act in the management, carrying on, and execution of the truſts aforeſaid, in conjunction with the other and others of them, who ſhould ſurvive or continue in all reſpects, and to all intents and purpoſes whatſoever, as if he or they had been originally thereby appointed a truſtee or truſtees for the purpoſes aforeſaid, and the ſaid teſtator thereby appointed his ſaid wife, and the ſaid *T. I.* and *B. P.* executors of his ſaid will. AND WHEREAS the ſaid teſtator died ſometime in the month of —— laſt, without having in anywiſe altered or revoked his ſaid recited will, and codicils, (except as aforeſaid,) and the ſame will and codicils have been duly proved by the ſaid *I. C. T. I.* and *B. P.* the executors therein named in the prerogative court of ——, and whereas the ſaid *B. P.* is deſirous of being diſcharged from the truſts repoſed in him, in and by the ſaid recited will and codicils (except as hereinafter is excepted, reſpecting the copyhold eſtates, directed to be ſold by the ſaid codicils of the —— day of —— laſt). AND whereas the ſaid widow and children of the ſaid *T. I.* deceaſed, are deſirous of appointing *E. E.* of ——, in the county of ——, gent. to be a truſtee, for the purpoſes in the ſaid recited will and codicils mentioned in the place and ſtead of the ſaid *B. P.* (except as aforeſaid). NOW THESE PRESENTS WITNESS that the ſaid *I. C. T. I. D. W. J.* the wife of the ſaid *B. I. D.* the wife of the ſaid *R. I.* dame *T.* the wife of the ſaid ſir *B. I. T. I.* par-

TRUSTEES.

Recital of the teſtator's death.

And that one of the truſtees is deſirous of being diſcharged in part from the truſt.

And that the widow and deviſees are deſirous of appointing E. E. in his room.

TRUSTEES.

ties hereto, and *W. T.* by force and virtue of the power and authority to them given by the ſaid recited will of the ſaid *T. I.* deceaſed, in this behalf, and in exerciſe and execution thereof, by and with the conſent and approbation of the ſaid *B. I. R. T.* and ſir *B. I.* (teſtified by their being parties to and duly executing theſe preſents). Have, and every of them hath nominated, ſubſtituted, and appointed, and by this their writing under their reſpective hands, atteſted by the two credible perſons whoſe names are hereon indorſed, as witneſſes to the due execution thereof, do, and every of them doth nominate, ſubſtitute, and appoint, the ſaid *E. E.* to be a new truſtee in the place and ſtead of the ſaid *B. P.* for the purpoſes in the ſaid recited will and codicils mentioned, except ſo far as relates to the power of ſelling the ſaid copyhold eſtates, directed to be ſold by the ſaid codicil of the —— day of —— laſt, and alſo have and every of them hath directed and appointed, and by theſe preſents do, and every of them doth direct and appoint the ſaid *T. I.* and *B. P.* with all convenient ſpeed to do, make, and execute all ſuch acts, deeds, matters, and things, as ſhall be requiſite and neceſſary for conveying, aſſigning, and transferring all and ſingular the real and perſonal eſtate of the ſaid *T. I.* deceaſed, deviſed and bequeathed to them the ſaid *T. I.* and *B. P.* reſpectively, in and by the ſaid recited will and codicils, (except as aforeſaid) ſo and in ſuch ſort, manner and form, as that the ſame may be effectually veſted in the ſaid *E. E.* and *T. I.* and their heirs, executors, adminiſtrators, and aſſigns, ac-

It is witneſſed that the ſaid parties have nominated the ſaid E. E. to be a new truſtee.

And alſo appoint that all acts ſhall be done neceſſary for transferring the truſt premiſes to the new and continuing truſtee.

cording to the nature and quality thereof reſpectively, upon the truſts, and ſo and for the ends, intents, and purpoſes, and under and ſubject to the powers, proviſos, and declarations in and by the ſaid recited will and codicils, mentioned, expreſſed, and declared of and concerning the ſame, or ſuch and ſo many of them as are now in being, undetermined, and capable of taking effect. In witneſs, &c. RECEIVER.

Deed appointing Receiver of Rents by Truſtees, for Creditors.

THIS indenture of four parts, made, &c. Between ſir *R. F. G.* of——, in the county of ——, bart, and dame *P.* his wife, of the firſt part, *S. N.* of ——, widow, of the ſecond part, *I. T.* of the third part, and *P. T.* of the fourth part. Whereas at the time of ſettling the terms and conditions of the ſaid proviſional ſecurity, on behalf of the ſaid *S. T.* and *I. T.* parties hereto, it was agreed that a receiver ſhould, (with the approbation of the ſaid *S. T.* and *I. T.* parties hereto, their reſpective executors, adminiſtrators, and aſſigns, from time to time, ſo long as the ſaid ſums of —— and ——, or either of them, or any part thereof, or the intereſt thereof, or any part thereof, ſhould be due and unpaid unto the ſaid *S. N.* and *I. T.* parties hereto, or either of them, their or either of their executors, adminiſtrators, or aſſigns, be conſtituted and appointed for the purpoſe of collecting and receiving the rents, iſſues, Recital of agreement to appoint receiver.

RECEIVER. and profits, of all the ſaid ſeveral meſſuages in the ſaid hereinbefore in part recited indenture of even date herewith, mentioned and compriſed, with directions to pay and apply the ſame rents, iſſues, and profits, in the manner hereinafter mentioned. Now this indenture witneſſeth, that in purſuance of the agreement entered into as aforeſaid, they ſaid ſir *R. F. C.* and dame *P.* his wife, by and with the conſent and approbation of them the ſaid *S. T.* and *I. N.* parties hereto, teſtified by their being ſeverally parties hereto, and reſpectively ſealing and delivering theſe preſents. And alſo they the ſaid *S. T.* and *I. T.* parties hereto, have, and every of them hath made, ordained, conſtituted, and appointed, and by theſe preſents do, and every of them doth make, ordain, conſtitute, and appoint, the ſaid *M. M.* their and every of their receiver, agent, and attorney, for the purpoſes hereinafter mentioned, that is to ſay, from time to time, in the names of them the ſaid ſir *R. F. C.* and dame *P.* his wife, or otherwiſe to aſk, demand, collect, and receive the rents, iſſues, and profits, of the ſaid ſeveral meſſuages, with the appurtenances, of and from the preſent and future tenants and occupiers thereof reſpectively, and of and from all and every perſon and perſons liable, obliged, or entruſted to pay the ſame reſpectively, as and when the ſame ſhall from time to time become due and payable, and alſo all ſuch rents, iſſues, and profits, as may happen to be already due or payable, and to make ſuch allowances to the ſaid tenants and occupiers, and other perſons paying the ſame, for taxes or otherwiſe, as they

Appointment of receiver.

reſpectively ſhall be lawfully entitled, unto and from time to time, to give receipts, acquittances, and other diſcharges, for ſuch rents, iſſues, and profits, and every or any part thereof, and in caſe of the non-payment thereof, or of any part thereof, to take, uſe, and proſecute any remedies for recovering and obtaining payment of the ſaid rents, iſſues, and profits, and every or any part thereof, by action, ſuit, diſtreſs, or otherwiſe, as ſhall be thought neceſſary, and one or more attorney or attornies under him the ſaid *M. M.* for all or any the purpoſes aforeſaid, from time to time to ſubſtitute and appoint, and alſo from time to time to remove at his will and pleaſure, and in every ſuch caſe generally to do, perform, and execute, all other matters and things needful and neceſſary for collecting and receiving the ſaid rents, iſſues, and profits, as fully and effectually, to all intents and purpoſes, whatſoever, as they the ſaid ſir *R. F. C.* and dame *P.* his wife, or their aſſigns, could or might do if perſonally preſent, all which acts and proceedings they the ſaid ſir *R. F. C.* and dame *P.* his wife, do confirm, and agree to ratify and confirm, and to hold for ratified and confirmed; and alſo all and whatſoever the ſaid *M. M.* ſhall otherwiſe lawfully do or cauſe to be done, in and about the premiſes. And the ſaid ſir *R. F. C.* and dame *P.* his wife, do hereby order and direct all and every the tenants and occupiers of the ſaid meſſuages, and all and every other perſon and perſons aforeſaid, to pay unto the ſaid *M. M.* the rents, iſſues, and profits, thereof, and all arrears thereof, for the purpoſes

RECEIVER.

See ante.

Directions to tenants to pay rents to the receiver.

RECEIVER. hereinafter mentioned, and do hereby declare that the receipt or receipts of the ſaid *M. M.* ſhall be good and ſufficient diſcharges, from time to time, to ſuch tenants, or occupiers, or other perſons reſpectively, paying the ſame, for ſuch rents, iſſues, and profits, as ſhall be therein reſpectively acknowledged or expreſſed to be received. And it is hereby agreed and declared, by and between the ſaid parties to theſe preſents, that he the ſaid *M. M.* ſhall pay and apply all and every the rents, iſſues, and profits, and ſum and ſums of money to be received by him, or by virtue of theſe preſents, in the manner following, that is to ſay, that he the ſaid *M. M.* ſhall and do, from time to time, in the firſt place, pay and diſcharge all ſuch taxes, rates, aſſeſſments, and impoſitions, whatſoever, already taxed, charged, aſſeſſed, or impoſed on the ſaid premiſes, as are payable, and uſually paid by the landlord of the ſame premiſes, in reſpect thereof, together with all neceſſary outgoings affecting the ſame, and uſually paid, or allowed in reſpect thereof. And, in the next place, pay unto the ſaid *M. A.* and *P. B.* and the ſurvivor of them, and the executors, adminiſtrators, and aſſigns, of ſuch ſurvivor, from time to time, all ſuch ſum and ſums of money as they ſhall find neceſſary, and require from time to time, for anſwering and ſupplying the ends, intents, and purpoſes, and truſts, in the ſaid recited indenture of demiſe expreſſed and contained, and every of them, according to the true intent and meaning of the ſame. And ſhall and do, pay or cauſe to be paid unto the ſaid ſir

Declaration that receiver ſhall hold the ſaid rents, &c.

Upon truſt to pay taxes, &c.

Then to pay to certain truſtees for creditors, money ſufficient for performance of truſts.

R. F. C. or his aſſigns, during the joint lives of himſelf and the ſaid dame *P.* his wife, and from and after the deceaſe of the ſaid ſir *R. F. C.* unto the ſaid dame *P.* or her aſſigns during the term of her natural life, all the clear reſidue and ſurplus of the rents, iſſues, and profits of the ſaid ſeveral meſſuages which ſhall remain from time to time, after anſwering the purpoſes aforeſaid, and after deducting and retaining out of ſuch reſidue and ſurplus from time to time, the amount of all ſuch expences as ſhall or may be incurred in the receiving and collecting the ſaid rents, iſſues, and profits, and the execution of the ſeveral powers and authorities hereby, or intended to be hereby given unto the ſaid *M. M.* and alſo for his own uſe ſo much and ſuch ſum of money from time to time, as he ſhall be intitled unto by way of poundage, and as a compenſation and ſatisfaction unto him for his care, pains, and trouble in collecting, receiving, and paying, and applying the ſaid rents, iſſues, and profits, in the manner and for the purpoſes aforeſaid, and which reaſonable compenſation and ſatisfaction the ſaid ſir *R. F. C.* and dame *P.* his wife, do hereby reſpectively impower and authoriſe the ſaid *M. M.* ſo to deduct and retain accordingly. [Covenant from receiver to apply the rents upon the truſts aforeſaid. Covenant not to obſtruct receiver, and to appoint a new one, ſame as poſt p. 184.] PROVIDED always, and it is hereby agreed and declared, that they, the ſaid *W. S.* and *W. I.* (parties hereto) their reſpective executors, adminiſtrators, or aſſigns, ſhall not in any wiſe be charged, or chargeable with, or accountable for,

RECEIVER.

and to deduct and retain expences

and a poundage for his trouble.

Proviſo that truſtees for creditors not to be anſwerable for miſapplication of truſt monies by the receiver.

RECEIVER. any loſs, miſapplication, or non-application, of all or any of the rents, iſſues, and profits of the ſaid ſeveral meſſuages, or any part thereof, by reaſon of any default in any receiver acting or to act under theſe preſents; nor ſhall they, the ſaid *W. I.* or *S. W.* (parties hereto) or either of them, their, or either of their executors, adminiſtrators, or aſſigns, in conſequence of any power, matter, or thing herein, or in the ſaid recited indenture of demiſe mentioned, be conſidered in the nature of mortgagees or a mortgagee in poſſeſſion, or accountable as ſuch, for the rents, produce, and profits of the ſame premiſes, or any part thereof, nor ſhall any thing herein or in the ſaid recited indenture of demiſe contained, or any power hereby, or intended to be hereby given, be conſtrued, or taken to prevent or preclude the ſaid *W. S.* and *W. I.* (parties hereto) or either of them, their, or either of their executors, adminiſtrators, or aſſigns, from adopting and uſing all ſuch means and expedients, by proceeding either at law or in equity as they or either of them may think proper, for the purpoſe of inforcing the payment of and receiving the ſaid principal ſums of —— and —— or either of them, or any part thereof, upon the deceaſe of the ſaid dame *P.* and the intereſt for the ſame ſums, in the mean time, and every part thereof, according to the true intent and meaning of the ſaid indenture of demiſe of three parts. PROVIDED always and it is hereby alſo agreed and declared that the ſaid *M. M.* or any future receiver to be appointed as aforeſaid, ſhall not be anſwerable or accountable for any loſs, damage, or misfortune

Truſtees not to be conſidered as mortgagees.

That creditors ſhall not be debarred from ſuing at law or in equity.

Receiver not to be anſwerable for any money in banker's hands.

which ſhall or may happen or be incurred in depoſiting the ſaid rents, iſſues, and profits, or any part thereof, in any Bank or Banker's hands, or elſewhere, for ſafe cuſtody, or with or for any loſs or damage which ſhall or may happen, in or about the premiſes, without his wilful default. In Witness, &c. RECEIVER.

Appointment of Receiver of Rents for ſecuring the regular payment of an Annuity.

And in further purſuance and performance of the ſaid hereinbefore mentioned agreement on the part of the ſaid *C. N.* in this behalf, he, the ſaid *C. N.* with the conſent and approbation of the ſaid *S. I.* teſtified as aforeſaid, but at the ſole riſque of the ſaid *C. N.* his executors, adminiſtrators, and aſſigns, doth hereby irrevocably make, nominate, and appoint, and in his place and ſtead put and depute, the ſaid *M. T.* his true and lawful attorney, for him and in his name, to aſk, demand, recover, and receive of and from all and every the preſent and future tenants and occupiers of the ſaid meſſuages, &c. and premiſes, and every or any part thereof, and of and from all and every other perſon and perſons liable to pay the ſame, all rents, arrears of rent, and all and every ſum and ſums of money, that is or are, or ſhall, or may be due, or owing, or payable, for or in reſpect of the ſaid meſſuages, &c. hereditaments and premiſes, or any part thereof, and on receipt of ſuch rent or rents, or arrears of rent, or ſum or ſums of money, Appointment of receiver with full powers.

RECEIVER. or any part thereof reſpectively, for him the ſaid *C. N.* and in his name to bring reſpectively for him the ſaid *C. N.* and in his name, or in the name of the ſaid *M. T.* to give, ſign, and execute any receipt or receipts, acquittance or acquittances, releaſe or releaſes, or other diſcharge or diſcharges, for the ſame, and on non-payment thereof, or any part thereof, reſpectively, for him the ſaid *C. N.* in his name, to bring commence, carry on, and proſecute any action or actions, ſuit or ſuits, or other proceeding or proceedings whatſoever, and to take or cauſe to be taken any diſtreſs or diſtreſſes, or otherwiſe, to act therein according to law, and to make or cauſe to be made, any avowry or avowries, cognizance or cognizances, of or for ſuch diſtreſs or diſtreſſes, and generally to do, execute, and perform, any act, deed, matter, or thing whatſoever, relative to the receipt or recovery of ſuch rents, arrears of rent and ſums of money as aforeſaid, or any part thereof, as fully, amply, and abſolutely to all intents and purpoſes, as he, the ſaid *C. N.* might or could do in his own proper perſon; he the ſaid *C. N.* hereby giving and granting unto the ſaid *M. T.* his full and whole power therein, and declaring that he will ratify and confirm all and whatſoever he the ſaid *M. T.* ſhall do, or cauſe to be done, in or about the ſame. AND it is hereby declared and agreed by and between the ſaid parties to theſe preſents, that he, the ſaid *M. T.* his executors, adminiſtrators, and aſſigns, ſhall ſtand and be poſſeſſed of and intereſted in, and the ſaid *M. T.* for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree to

See ante.

Truſt to apply rent and monies received in diſcharge of annuity and coſts, and charges, &c.

and with the ſaid *C. N.* and alſo to and with the ſaid *S. I.* and each of them, and the executors, adminiſtrators, and aſſigns, of them and each of them, by theſe preſents, that he, the ſaid *M. T.* ſhall and will ſtand poſſeſſed of and intereſted in all and every ſum and ſums of money to be received by him, in purſuance of the power and authority hereinbefore for that purpoſe contained, upon the following truſts, that is to ſay, UPON truſt in the firſt place, by, with, and out of the ſame, from time to time to pay to the ſaid *S. I.* his executors, adminiſtrators, and aſſigns, the ſaid annual ſum or yearly rent charge of — ſo ſecured to be paid to him, the ſaid *S. I.* during the life of the ſaid *C. N.* when and as the ſaid annual ſum or yearly rent-charge ſhall become due and payable. AND upon farther truſt in the next place with and out of ſuch monies, to reimburſe and ſatisfy himſelf, his coſts, charges, and expences in the execution of the ſaid truſts, or in relation thereto, together with a ſalary or allowance of one ſhilling in the pound, to be received by him for his trouble in collecting and receiving ſuch rents, iſſues, profits, and ſums of money as aforeſaid. AND from and after payment, and ſatisfaction and diſcharge of the ſaid annual ſum or yearly rent charge, and of all ſuch coſts, damages, and expences, and of ſuch ſalary or ſuch allowance as aforeſaid, and every part thereof reſpectively: UPON truſt that he, the ſaid *M. T.* do and ſhall from time to time, render and pay the ſurplus and reſidue, (if any ſuch ſhall be) of the ſaid rents, iſſues, and profits, and ſums of money ſo to be received by him as aforeſaid, unto the ſaid

RECEIVER.

RECEIVER.

C. N. his executors, adminiſtrators, and aſſigns, for his and their own uſe and benefit. PROVIDED always, and it is hereby declared and agreed by and between the ſaid parties to theſe preſents, that the ſaid *M. T.* ſhall not act as receiver of the rents and profits of the ſaid premiſes, until default ſhall be made by the ſaid *C. N.* of and in payment of the ſaid annual ſum or yearly rent charge of — or ſome part thereof, for the ſpace of twenty days next after the ſame ſhall become due and payable. AND the ſaid *M. T.* for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree to and with the ſaid *C. N.* and alſo to and with the ſaid *S. I.* and each of them, their, and each of their executors, adminiſtrators, and aſſigns, that he, the ſaid *M. T.* ſhall and will faithfully, truly, and punctually collect, receive, and gather in and pay, diſpoſe of, and apply the rents, iſſues, and profits of the ſaid meſſuages, &c. hereditaments, and premiſes hereinbefore mentioned, upon the truſts and for the intents and purpoſes aforeſaid. [IN the covenant for further aſſurance.] AND alſo that he, the ſaid *C. N.* or his aſſigns, ſhall not, nor will at any time or times hereafter, without the conſent and approbation of the ſaid *S. I.* his executors, adminiſtrators, or aſſigns, in writing for that purpoſe, firſt had, and obtained, revoke, alter, fruſtrate, annul, or make void all or any of the powers or authorities hereinbefore given or granted to the ſaid *M. T.* or do, or ſuffer to be done, any matter or thing whereby the ſaid powers or authorities, or any of them ſhall or may be rendered void or of no effect, and ſhall

Proviſo not to act as receiver till default in payment of the annuity.

Covenant to apply rents upon truſts, before mentioned.

Covenant for further aſſurance.

Covenant not to fruſtrate or annul powers, nor to obſtruct receiver.

not nor will impede, hinder, or obſtruct him, the ſaid *M. T.* or any future receiver, to be appointed as hereinafter is mentioned, in collecting and receiving, or recovering, or in paying or applying upon the truſts and in manner aforeſaid, the rents, iſſues, and profits of the ſaid premiſes, or any of them, or any part thereof. And alſo that in caſe the ſaid *M. T.* ſhall happen to die, or ſhall refuſe or neglect to act in the ſaid receiverſhip, during the life of the ſaid *C. N.* it ſhall and may be lawful to and for the ſaid *C. N.* his executors, adminiſtrators, and aſſigns, to nominate and appoint another receiver, at the nomination of the ſaid *S. I.* his executors, adminiſtrators, or aſſigns, but at the coſts, charges, and riſque of the ſaid *C. N.* his executors, adminiſtrators, or aſſigns, for the ſeveral purpoſes aforeſaid, and ſo from time to time during the life of the ſaid *C. N.* as occaſion ſhall require. PROVIDED alſo that if the ſaid *C. N.* or his aſſigns, ſhall neglect or refuſe ſo to nominate or appoint ſuch future receiver, or receivers, then and in ſuch caſe, and ſo often as the like caſe ſhall happen, it ſhall and may be lawful for the ſaid *S. I.* his executors, adminiſtrators, and aſſigns, but at the ſole riſque of the ſaid *C. N.* his executors, adminiſtrators, and aſſigns, to appoint ſome fit perſon or perſons to collect the ſaid rents, iſſues, and profits, upon the truſts aforeſaid. BUT it is hereby declared and agreed by and between the ſaid parties to theſe preſents, that in the mean time, and until default ſhall be made by the ſaid *C. N.* of or in payment of the ſaid annual ſum or yearly rent-charge of — or ſome part thereof, at the days hereinbefore limited

RECEIVER.

Covenant in caſe receiver ſhall die or neglect to act, another ſhall be appointed.

Declaration that until default in payment of annuity, it may be lawful for C. N. to enjoy meſſuages, &c.

RECEIVER.

and appointed for payment of the ſame, it ſhall and may be lawful to and for the ſaid *N. C.* and his aſſigns, peaceably and quietly to have, hold, occupy poſſeſs and enjoy the ſaid meſſuages, &c. hereby releaſed with their appurtenences, and to take the rents, iſſues, and profits thereof, to and for his and their own uſe and benefit, without any interruption of or by them the ſaid *S. I.* and *F. F.* or either of them, their or either of their executors, adminiſtrators, or aſſigns, or by the ſaid *M. T.* or any future receiver to be appointed as aforeſaid.

Appointment of Stewards of a Manor.

Appointment of receiver.

KNOW all men by theſe preſents, that I. *J. O.* of —, eſq. for divers good cauſes and conſiderations, me thereunto moving, and truſting to and confiding in the integrity of *S. N. F. N.* and *A. N.* of &c. have given and granted, and by theſe preſents do give and grant unto the ſaid *S. N. F. N.* and *A. N.* or either of them, the office of ſteward of the court of my manor of ——, in the county of ——, aforeſaid, and do hereby make, ordain, nominate, conſtitute, and appoint them the ſaid *S. N. F. N.* and *A. N.* or either of them, ſteward of the court of the ſaid manors. TO HAVE AND TO HOLD the ſaid office of ſteward of the ſaid court and of the ſaid manors to them the ſaid *S. N. F. N.* and *A. N.* to be executed by them the ſaid *S. N.*

F. N. and *A. N.* or either of them, for the time being, as occaſion may require, with all uſual and accuſtomed ſalaries, fees, profits, and perquiſites of courts belonging to the ſaid office of ſteward of the ſaid court, and of the ſaid manor, or by reaſon thereof, heretofore uſually received and enjoyed by any former ſteward or ſtewards of the ſaid court; and I do hereby alſo nominate, conſtitute, and appoint, and in my place and ſtead, put them the ſaid *S. N. F. N.* and *A. N.* or either of them, to be my true and lawful attorney and ſteward in manner aforeſaid, and for me, and in my name, and for my own proper uſe and benefit, to aſk, demand, ſue for, recover and receive, of and from all and every my tenants of the ſaid manor, all and every ſuch ſum and ſums of money, iſſues and profits whatſoever, and of what nature or kind ſoever, which at any time hereafter, ſhall, can or may become due, owing or payable, or anywiſe ariſe, and belong to me, out of my ſaid manors, as former ſtewards have collected and received; and in default of payment of all or any part of the ſame, to take all ſuch lawful ways and means for the recovery thereof, or of every part thereof, by action, bill, plaint, or otherwiſe is they ſhall think proper, or be adviſed, and for me and in my name, upon receipt of all or any part of the ſame, by the ways and means aforeſaid, to give proper and ſufficient receipts and diſcharges for the ſame, and generally to do, or cauſe to be done all and every ſuch further and other lawful and reaſonable act and acts, thing and things, whatſoever belonging to the STEWARDS.

ATTORNEY. office of ſteward as aforeſaid, in and about the premiſes as ſhall be neceſſary and requiſite to be done, and have been formerly and uſually done, and that as fully and effectually to all intents and purpoſes as I the ſaid *J. O.* might or could do, if I were perſonally preſent, and theſe preſents had not been made, hereby ratifying, allowing, and confirming all and whatſoever the ſaid *S. N. F. N.* and *A. N.* or either of them, as ſteward as aforeſaid, ſhall lawfully do, or cauſe to be done, in and about the premiſes, by virtue of theſe preſents.

Proviſo that deputation ſhall continue only during pleaſure. PROVIDED always, that this my deputation and appointment ſhall continue no longer in force, then during my will and pleaſure only. In WITNESS, &c.

Appointment of Attorney, (a) authorizing a perſon to complete an Agreement for the ſale of an Eſtate, by executing the neceſſary Conveyances.

To all to whom theſe preſents ſhall come, I *S. G.* of, &c. ſend greeting, WHEREAS [recital of Mr. *G.* being ſeiſed of certain eſtates, &c. &c. and of the agreement for the purchaſe thereof]. Now KNOW YE, that I the ſaid *S. G.* do hereby for myſelf and my heirs, ratify, validate and confirm the ſaid hereinbefore in part recited articles of agree-

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(a) See ante. p. 10.

ment, mentioned to bear date the —day of —, which was in the year ——, and expreſſed to be made by and between the ſaid *N. T.* on my behalf, and the ſaid *G. F.* and all and every clauſe and clauſes, matters and things, (ſuch matters and things being juſtly and truly ſtated or recited, in all material reſpects,) therein contained, and for effectually carrying into execution the ſame, have made, conſtituted, nominated, and appointed, and by theſe preſents do make, conſtitute, nominate, and appoint, the aforeſaid *N. T.* my true, lawful, and actual attorney, for me, and in my name, and to and for my uſe, to aſk for, demand and receive, of and from the ſaid *G. F.* his heirs or aſſigns, the ſaid ſum of ——, ſo agreed to be paid, by him and them, for the purchaſe of the equity of redemption of me the ſaid *S. G.* and my heirs, of and in all and ſingular, the meſſuages, hereditaments, and premiſes in the ſaid in part recited agreement, compriſed and concluded, and upon the receipt thereof, a good and ſufficient acquittance and diſcharge for me, and in and with my name, or in and with his own name, (*a*) to make, ſign, and give, and further for me and in my place and ſtead, and in and with my name, to ſign, ſeal, and as my act and deed, deliver any deed or deeds, inſtrument or inſtruments in writing, and to do and execute all and every, or any other act and thing, acts and things whatſoever, which may be neceſſary or proper, or which the counſel in the law ATTORNEY.

(*a*) See ante. p. 13.

ATTORNEY. of the ſaid *G. J.* his heirs or aſſigns, may deem, judge, and under his hand declare, to be neceſſary or proper, for carrying the ſaid agreements into complete effect and execution, according to the true intent and meaning thereof, and of the parties thereto, and ſo and in ſuch manner that all and every of the equity, right, title, and claim whatſoever of me the ſaid *S. G.* my heirs and aſſigns, in or to the ſaid hereditaments and premiſes, or any part or parcel thereof, or to the redemption thereof, or of any part or parcel thereof, ſhall and may be utterly releaſed, extinguiſhed, and gone; and the ſame hereditaments and premiſes, with the appurtenances, and all and every the eſtate, right, title and intereſt of me and them, and of every of them, therein and thereto, ſhall and may be effectually and abſolutely conveyed, transferred, and aſſured unto, and to the uſe of him the ſaid *G. J.* his heirs and aſſigns, for ever, or unto ſuch other perſon or perſons, and for ſuch eſtate or eſtates therein, and in ſuch manner and form as he or they ſhall or may name, direct, or appoint, free and clear, and freely and clearly acquitted, exonerated, and diſcharged of and from all and all manner of proviſo and equities of redemption, liens, charges, incumbrances, or claims whatſoever, by me the ſaid *S. G.* or my anceſtors, or any of them, willingly or knowingly, reſerved, had, made, committed, or ſuffered; and I do hereby accordingly declare, that the conveyances, aſſurances, releaſes, acquittances, inſtruments, acts, deeds, matters and things, and every of them ſo to be executed, ſigned, ſealed, delivered, made, and done by the ſaid

N. T. in or about, or concerning the premiſes, by virtue of theſe preſents, ſhall be good, valid, and effectual, to every purpoſe and intent whatſoever, in like manner, and as fully and beneficially in all reſpects as if the ſame or any of them, had been executed, ſigned, ſealed, delivered, made and done, by myſelf, in my own proper perſon, hereby allowing, ratifying, and confirming, and promiſing at all times to allow, ratify, confirm, and aſſure, all and every the acts and deeds, matters and things which my ſaid attorney ſhall or may do, or cauſe to be done, in and about the premiſes, by virtue of theſe preſents. PROVIDED always that theſe preſents, or the powers and authorities hereby given unto the ſaid *N. T.* ſhall not, nor ſhall any or either of them, in any wiſe, extend or be conſtrued, or deemed to extend to revoke, annul, or determine any former or other power or powers of attorney, by me at any time or times heretofore, made or executed, unto him the ſaid *N. T.* or to any other perſon or perſons for any diſtinct or other purpoſe or purpoſes, than that and thoſe which is, and are hereby particularly mentioned, nor ſhall theſe preſents, nor any power or authority herein contained, extend or be conſtrued, or deemed to extend to any other matter ſubject, tranſaction, or thing whatſoever, than that and thoſe which is, and are hereinbefore particularly mentioned and expreſſed, or otherwiſe hereby clearly and evidently alluded or referred unto, as part of the ſubject matter, or within the ſpirit, ſcope, and intent of theſe preſents. IN WITNESS, &c.

ATTORNEY.

ATTORNEY.

Appointment of an Attorney (a) to borrow money upon poſt obit, *from a certain foreign Prince.*

To ALL, &c. I ——, by the grace of God, prince of ——, ——— of ——, &c. &c. preſumptive heir of the crown of ——, ſend greeting, WHEREAS I have occaſion for a conſiderable ſum of money, which it will not be convenient for me to repay, until after the death of our preſent ſovereign, — king of ——, and it is therefore my intention to raiſe the ſame, by granting and engaging to pay to the perſon or perſons who ſhall advance the ſame to me, larger ſums than he or they reſpectively advance to me, payable on the death of his ſaid majeſty, in the event of my ſurviving him, and which engagement or grants are commonly called *poſt obits*. NOW KNOW ALL MEN by theſe preſents, that for effecting the purpoſes aforeſaid, and for divers other good cauſes and conſiderations, me thereunto moving, I have made, ordered, conſtituted, and appointed, and by theſe preſents, do order, conſtitute, and appoint, ——, now reſiding in *London*, to be my true and general attorney, for me and in my name, place, and ſtead, to treat and agree with any perſon or perſons whomſoever, on ſuch terms, and in ſuch manner as to him ſhall ſeem proper or neceſſary, and to raiſe and take up, and in my name,

(a) See ante. p. 10.

receive of, and from any perſon or perſons whom- ATTORNEY.
ſoever any ſum or ſums of money whatſoever, as ſhall be for the conſideration of my granting, or engaging to pay, ſuch larger ſum or ſums of money, as he my ſaid attorney, ſhall contract, or engage to be paid or payable by me, upon the death of his ſaid majeſty, in caſe I ſhall ſurvive him, and after any ſuch treatment or agreement, made and concluded as aforeſaid, for me, and in my name, and as my act and deed, to ſign, ſeal, execute, and deliver, all neceſſary and proper grants, deeds, covenants, bonds, and other aſſurances, to ſuch perſon or perſons, for ſecuring to him or them reſpectively, the ſum or ſums of money, contracted or agreed to be paid by me, to him or them reſpectively, upon ſuch event as aforeſaid, as he my ſaid attorney ſhall be adviſed, or at his diſcretion think fit, giving, and by theſe preſents, granting unto my ſaid attorney, full power and abſolute authority to do, execute, and perform, all and every act or acts, thing or things, whatſoever, which ſhall be by him judged needful and neceſſary to be done, touching or in anywiſe concerning the premiſes, in as full and ample manner, to all intents and purpoſes, as I might or could do, if I were then and there perſonally preſent, hereby ratifying, and by theſe preſents, confirming all and whatſoever acts and things my ſaid attorney ſhall do or cauſe to be done, in and about the premiſes.

In Witness.

ATTORNEY.

Letter of Attorney (*a*) *to prove Debt, chooſe Aſſignees, receive Dividends, &c. under Commiſſion of Bankruptcy.*

KNOW all men by theſe preſents, that we *K. A. Q. A.* and *S. A.* the younger, of the city of ——, ——, and co-partners, for divers good cauſes and conſiderations, me thereunto moving, have, and each and every of us hath made, ordained, conſtituted, and appointed, and by theſe preſents do, &c. *B. H. M. A. M. A.* and *L. T.* of the city of ——, merchants and co-partners, jointly, to be our joint attornies, and each of them ſeparately, to be our ſeparate attorney, for us, and in our names, places, and ſtead, to appear before the commiſſioners named and authoriſed in and by a commiſſion of bankruptcy awarded and iſſued againſt *M. J. B. R.* and *S. E.* of, &c. merchants, or the major part of them, on the days and times, and at the place appointed, or to be appointed in the London Gazette, for the proof of deaths, or other purpoſes, under the ſaid commiſſion, and then and there for us, and in our names, to exhibit any affidavit, or proof of debt, due to us, from the ſaid bankrupts, and for us, and in our names, or in the names of them our ſaid attornies, jointly, or any of them ſeparately, to vote in the choice of one or more aſſignee or aſſignees, that may hereafter be choſen, of the ſaid bankrupt's eſtate and

(*a*) See ante. p. 10.

effects, as they our ſaid attornies, jointly, or any of them, ſeparately, ſhall think meet, fit, and proper for the better management, getting in, and recovering of the eſtate and effects of the ſaid bankrupts. AND ALSO for us, and in our names to conſent and agree with whom, or in what place the monies to be received from time to time out of the ſaid bankrupt's eſtate and effects, ſhall remain until the ſame be divided. AND ALSO for us, and in our names to attend all or any meetings of the aſſignees and creditors, under the ſaid commiſſion, and to aſſent to, or diſſent from not only the commencing of any ſuit or ſuits at law, or in equity, by the aſſignee or aſſignees of the ſaid bankrupts eſtate and effects, but alſo the ſubmitting of any diſpute or difference to arbitration, or to their making compoſition with any perſon or perſons, debtors of the ſaid bankrupts eſtates, when the ſame ſhall appear neceſſary and reaſonable. AND ALSO for us, and in our names, places, and ſtead, but to our uſe, to aſk, demand, ſue for, levy, recover, and receive, of and from the aſſignee or aſſignees of the eſtate and effects of the ſaid bankrupts, all and every ſuch dividend and dividends, compoſition or compoſitions, as ſhall be due and owing unto us from the ſaid bankrupts, for or in reſpect of our debts; and upon receipt thereof, for us and in our names, or in the names of them our ſaid attornies, jointly, or any of them, ſeparately, to make, ſign, ſeal, deliver, and execute all and every ſuch good and ſufficient receipts, releaſes, acquittances, and other diſcharges, as ſhall be thought proper and requiſite for that

ATTORNEY.

ATTORNEY. purpoſe. AND ALSO for us, and in our names, to ſign any certificate or certificates for the ſaid bankrupts, or any or either of them, of or reſpecting their conformity. AND GENERALLY to do, manage, tranſact, and execute all and every ſuch further and other lawful and reaſonable acts, matters, powers, and things, in and about the premiſes, for the better executing the authorities aforeſaid, giving, and by theſe preſents granting unto our ſaid attornies, jointly, and to each of them ſeparately, our full and whole power and authority, in and about the premiſes, ratifying, and by theſe preſents confirming all and whatſoever our ſaid attornies jointly, or any of them ſeparately, ſhall fully do or cauſe to be done, in and about the premiſes. In witneſs, &c.

General Letter of Attorney (a) to act in Jamica, or elſewhere, abroad, from ſurviving Executors.

KNOW all men, &c, That we *L. O.* of, &c. eſq. and *S. I.* late of the iſland of ——, but now of, &c. in that part of *Great Britain* called ——, eſq. the ſurviving executors and deviſees, in truſt, named in the laſt will and teſtament of *D. A.* late of the iſland of ——, in the ———, eſq. deceaſed, have, and each of us hath made, &c. and by theſe preſents, &c. *D. D.* of the iſland of ——,

(a) See ante, p. 10.

aforeſaid, eſq. and *C. E.* of the ſame place, eſq. to be our true and lawful attornies and attorney, jointly, and each of them ſeparately, for us, the ſaid *L. O.* and *S. I.* and in our names, place, and ſtead, as ſurviving executors and deviſees, as aforeſaid, or otherwiſe to aſk, demand, ſue for, recover, and receive, of and from all and every perſon and perſons whomſoever, now reſiding or being, or who ſhall or may, at any time or times hereafter, reſide or be within the ſaid iſland of ——, or elſewhere, in the ———, all and every ſuch ſum and ſums of money, goods, chattels, and effects, and all other matters and things whatſoever, which now is, or are, or ſhall, or may, at any time or times hereafter, become due, owing, or payable unto us, or which ſhall become our property as ſurviving executors and deviſees, as aforeſaid, by any ways or means, or in any manner howſoever, and upon receipt or receipts thereof, or of any part thereof, for us, and in our names, or in the names of them our ſaid attornies, or either of them, or otherwiſe to make and give ſuch receipt or receipts, diſcharge or diſcharges, for the ſame, as our ſaid attornies, or either of them, ſhall think proper. AND ALSO for us, and in our names, to ſettle any account or accounts wherein (as ſurviving executors and deviſees, as aforeſaid,) we now are, or at any time or times hereafter ſhall or may be any way intereſted or concerned with any perſon or perſons whomſoever, relating to any matter or thing whatſoever, and to pay or receive the balance, as the ſame ſhall happen to be. AND ALSO for us, and in our

ATTORNEY.

Receive debts.

Settle accounts.

Compound.

ATTORNEY. names to compound with any perſon or perſons for or in reſpect of any debt or debts, ſum or ſums of money, which now is, or are, or ſhall at any time or times hereafter become due, owing, or payable to us, as ſurviving executors and deviſees, as aforeſaid. And upon receipt or receipts of any ſum or ſums of money, due or owing to the eſtate of the ſaid *D. A.* deceaſed, or to us as ſurviving executors and deviſees, as aforeſaid, upon mortgage or mortgages for us, in our names, or in the name of our ſaid attornies, or either of them, or otherwiſe to make and give ſuch receipt or receipts, diſcharge or diſcharges, and to ſign and execute, and as our acts and deeds, to ſeal and deliver ſuch deeds, releaſes, conveyances, and aſſurances, of the mortgaged premiſes, unto ſuch perſon or perſons as our ſaid attornies, jointly, or either of them ſeparately, ſhall be adviſed, or think fit. AND ALSO for us, and in our names to appear, and the perſons of us their ſaid conſtituents, to repreſent in all courts, and before all miniſters and magiſtrates of law and equity, whatſoever, in the ſaid iſland of ——, or elſewhere, in ———, as by our ſaid attornies jointly, or either of them ſeparately, ſhall be thought adviſable, and moſt conducive to our intereſt as ſurviving executors and deviſees, as aforeſaid. AND to ſue, arreſt, diſtrain, ſeize, ſequeſter, impriſon, and condemn, and out of priſon again to releaſe, acquit, and diſcharge, all perſons and things whatſoever indebted, or which ſhall or may be indebted to us as ſurviving executors and deviſees, as aforeſaid, or to which we

Sue and be ſued.

now are, or may, or can at any time hereafter have any lawful claim or demand. AND ALSO to compound or compromiſe, ſubmit to arbitration, conclude and agree to the ſame, as they our ſaid attornies jointly, or either of them ſeparately, ſhall think moſt for our benefit and advantage, and for that purpoſe for us, and in our names, as ſurviving executors and deviſees, as aforeſaid, to enter into, make, and execute ſuch bonds of arbitration, releaſes, and diſcharges, as ſhall be thought needful and neceſſary. AND ALSO for us, and in our names, place, and ſtead, as ſurviving executors and deviſees, as aforeſaid, to uſe and take all ſuch ways and means for the managing, tranſacting, and negotiating our buſineſs and affairs, and for the recovering and getting in all ſuch ſum and ſums of money, goods, chattels, or effects, in the ſaid iſland of ———, or elſewhere, in the ———, as our ſaid attornies jointly, or either of them ſeparately, ſhall think moſt fit and proper, in any wiſe howſoever. And as we ourſelves might do, uſe, or take, as ſurviving executors and deviſees, as aforeſaid, if perſonally preſent. AND ALSO for us, and in our names, as ſurviving executors and deviſees, as aforeſaid, or otherwiſe to enter into, and by ejectment or otherwiſe to obtain, take, and keep poſſeſſion of all or any plantations, negroes, lands, meſſuages, tenements, or hereditaments, belonging or in any wiſe appertaining or indebted unto us, or wherein we now have, or hereafter may have, any eſtate or intereſt whatſoever, in the ſaid iſland of ——, or elſewhere, in the ——, and to repair the ſame, and

ATTORNEY.

General management.

Enter upon and manage eſtates.

ATTORNEY. generally to overſee, let, ſet, manage, and direct the cultivation of the ſame premiſes to the beſt advantage, as our ſaid attornies jointly, or either of them ſeparately, ſhall think fit. AND ALSO, and in our names or otherwiſe, but to our uſe as ſurviving executors and deviſees, as aforeſaid, to aſk, demand, ſue for, levy, recover, and receive of and from all and every perſon and perſons whomſoever, all ſuch rent and rents, and arrears of rent and rents, profits and produce, which now is or are due to us, or which at any time or times hereafter ſhall or may belong, or become due, owing, or payable to us, as ſurviving executors and deviſees, as aforeſaid, upon, for, or in reſpect of any plantations, meſſuages, lands, negroes, tenements, hereditaments, and premiſes, ſituate, lying, and being in the ſaid iſland of ——, or elſewhere, in the ——, and upon receipt thereof, or of any part thereof, in our names as ſurviving executors and deviſees, as aforeſaid, or in the names of our ſaid attornies, jointly, or either of them ſeparately, to make and give acquittances and diſcharges for the ſame. AND ALSO for us, and in our names, or otherwiſe forthwith to proceed, to foreclоſe the equity of redemption, of and in all or any of the lands, tenements, ſlaves, hereditaments, and premiſes, indebted unto us, mortgaged, or charged with or for any ſum or ſums of money now due, or at any time or times hereafter to become due, or owing, or payable, unto us, as ſurviving executors and deviſees as aforeſaid, or otherwiſe to procure, to obtain, or compel the ſale of all or any of ſuch lands, tenements, ſlaves, heredita-

Recover rents.

Foreclоſe mortgages.

ments, and premiſes, as to our ſaid attornies jointly, or either of them ſeparately, may ſeem fit and proper. And for us, and in our names to make, ſign, ſeal, and duly execute and deliver all ſuch acts, deeds, and aſſurances, as ſhall or may thereupon become or be thought neceſſary, and to remit, return, ſend, and conſign, all and ſingular ſuch ſum and ſums of money, goods, effects, rents, profits, and produce, which they the ſaid *D. D.* and *C. E.* jointly, or either of them ſeparately, at any time or times hereafter, ſhall recover and receive, or poſſeſs themſelves of, by virtue of theſe preſents, or any thing herein contained, unto us in ——, or to ſuch other perſon or perſons as we ſhall, by writing under our hands, for that purpoſe order, direct or appoint; and to do all and every ſuch further and other capital acts and deeds, and other matters for the better executing and diſcharging the powers and authorities hereby given, as to the ſaid *D. D.* and *C. E.* jointly, or either of them ſeparately, ſeem meet. AND for the better and more effectually executing the ſeveral powers and authorities hereby given, we do hereby impower and authoriſe our ſaid attornies or either of them, to make, conſtitute, and appoint, one or more perſon or perſons, as their ſubſtitute or ſubſtitutes, (*a*) with full power to do, perform, and execute all and ſingular, the powers, authorities, matters, and things, hereinbefore coniained or mentioned, and the ſame from time to time, at

ATTORNEY.

Conſign goods.

Appoint other attornies.

(*a*) See ante. p. 14.

ATTORNEY. their pleaſure to revoke, and another or others to appoint, as to them our ſaid attornies, or either of them ſhall ſeem meet, giving, and by theſe preſents granted unto our ſaid attornies, jointly, and to each of them ſeparately, and to their ſubſtitute or ſubſtitutes, our full and whole power and authority, to do, and act in the premiſes, as fully and effectually to all intents and purpoſes, as we ourſelves might, or could do, if perſonally preſent, ratifying, and by theſe preſents, confirming all and whatſoever, our ſaid attornies, jointly, or either of them ſeparately, or their ſubſtitute or ſubſtitutes ſhall lawfully do, or cauſe to be done, in and about the premiſes. IN WITNESS, &c. dated ——— day of ———.

Letter of Attorney from Executors to prove a Will and Act in Jamaica, &c.

KNOW all men, &c. That we *M. S.* of &c. in the kingdom of *Great Britain*, widow, and *F. I.* of &c. and *M. I.* of &c. executrix, and executors of the laſt will and teſtament of *M. P.* late of the —— of ——, in the ——, in the kingdom of *Great Britain*, maſter mariner, deceaſed, for divers good cauſes and valuable conſiderations thereunto moving, have, and each and every of us, hath deputed, authoriſed, conſtituted, appointed, &c. *D. J.* of ——, in the iſland of ——, merchant, our

Prove will, &c. and each of our true and lawful attorney, for us, and

each of us, and for the ſurvivors and ſurvivor of us, and in our and each of our names, place, and ſtead, and in the names and name, place, and ſtead of the ſurvivors and ſurvivor of us, as executors aforeſaid, to appear before any judge or judges, miniſter or miniſters, magiſtrate or magiſtrates, or any other proper officer or officers, of any eccleſiaſtical or other proper court, tribunal, or board in that behalf, and there to prove the will of the ſaid *M. P.* and take probate thereof, and for us, and each of us, and for the ſurvivors and ſurvivor of us, and in our and each of our names, and in the names and name of ſuch ſurvivors and ſurvivor, to ſolicit, obtain and take adminiſtration of all, and ſingular, the goods and chattels, rights, and credits, which were of the ſaid *M. P.* at the time of his deceaſe. AND alſo, for us and each of us, and the ſurvivors and ſurvivor, &c. and in our names, &c. as executors as aforeſaid, but to our uſe or to the uſe of the ſurvivors or ſurvivor of us, to enter into, and by ejectment or otherwiſe, to obtain, take and keep poſſeſſion of all, or any plantations, negroes, meſſuages, lands, tenements, or hereditaments in the iſland of —, or elſewhere, in the *Weſt Indies*, mortgaged or charged, with or for any ſum or ſums of money, due, ariſing, or payable unto the ſaid *M. P.* before, or at his deceaſe, or now due, or at any time or times hereafter, to become due, owing, or payable to us, or either of us, or the ſurvivors or ſurvivor of us, as executors as aforeſaid. AND alſo, for us and the ſurvivors, &c. and in our names, &c. as executors as aforeſaid, forthwith to proceed to foreclоſe the equity of redemption of,

ATTORNEY.

Serve ejectments.

Foreclоſe mortgages.

ATTORNEY. and in all, or any of the plantations, &c. hereditaments and premiſes, mortgaged, or charged with or for any ſuch ſum or ſums of money, or otherwiſe to proceed to obtain or compel the ſale of any ſuch plantations, &c. as to our ſaid attorney may ſeem fit and proper. AND alſo, for us and each of us, and for the ſurvivors, and ſurvivor of us, and in our and each of our names, and in the names and name of ſuch ſurvivors and ſurvivor, as executors as aſſigned, or otherwiſe to make, ſign, ſeal, and duly execute all ſuch acts, deeds, and aſſurances, as ſhall or may be thereupon thought neceſſary, and alſo, for us, &c. as executors as aforeſaid, to treat and agree with any perſon or perſons whomſoever, for the ſale or diſpoſition of any plantation or plantations, meſſuages, lands, tenements, negroes, ſlaves, or cattle in the ſaid iſland of ——, or elſewhere, in ———, aforeſaid, as our ſaid attorney ſhall think fit, and for us, &c. as executors aforeſaid, to make and execute ſuch releaſes, conveyances, and aſſignments of the ſame, as our ſaid attorney ſhall be adviſed and ſhall think proper, And alſo, for us, &c. as executors as aforeſaid, to take and receive ſuch bonds or other ſecurities for the payment of the premiſes or conſiderations of ſuch ſales or diſpoſitions ſo to be made as our ſaid attorney ſhall think fit. AND alſo, for us, &c. as executors as aforeſaid, to enter into and take poſſeſſion of, and to view and ſurvey at his will and pleaſure, all or any plantations, negroes, lands, meſſuages, tenements, or hereditaments, which of right appertained or belonged to the ſaid *M.P.* before or at his diſeaſe, or which now belong, or here-

Execute deeds.

Make ſales.

after ſhall belong, or in any wiſe appertain to us, or either of us, or to the ſurvivors or ſurvivor of us, or otherwiſe; we, &c. as executors as aforeſaid, now have or hereafter may have any eſtate or intereſt whatſoever in the ſaid iſland of —, or elſewhere in the —, aforeſaid; and for us, &c, as executors as aforeſaid, to view, ſearch, and ſee the ſtate and condition, and defects of reparation of the ſaid premiſes, and forthwith to repair or give proper notices or directions for repairing the ſame, and generally to overſee, let, ſet, manage, direct and improve the cultivation of the ſaid premiſes to the beſt advantage as our ſaid attorney ſhall think fit, and alſo, for us, &c. and in our and each of our names, &c. as executors as aforeſaid, but to our uſe, to aſk, demand, ſue for, levy, recover, and receive of and from all, and every perſon or perſon whomſoever, all ſuch rent and rents, or arrears of rent, and rents, profits and produce, and which at the death of the ſaid *M.P.* was or were due, owing, or payable to him or which now is or are due, owing or payable to us, or either of us, or which at any time or times hereafter, ſhall or may belong or come due, owing, or payable to us, or the ſurvivors or ſurvivor of us, as executors as aforeſaid, for or in reſpect of any plantations, meſſuages, lands, negroes, tenements, hereditaments and premiſes, ſituate, lying, and being in the ſaid iſland of ——, or elſewhere in the *Weſt Indies* aforeſaid, belonging unto the ſaid *M.P.* deceaſed, in his life time; or belonging, or hereafter to belong unto us the ſaid *M. S. F. I.* and *M. I.* or either of us, or the ſurvivors or ſurvivor of us, as executors as aforeſaid, and upon re-

ATTORNEY.

Manage eſtates.

Recover rents, &c.

ATTORNEY. ceipt thereof or any part thereof, in our and each of our names, or in the names, &c. or in the name of him our ſaid attorney, to make and give acquittances and diſcharges for the ſame, and to remit, return, ſend and conſign, all and ſingular, ſuch ſum and ſums of money, goods, effects, rents, profits and produce as he the ſaid *D. I.* ſhall recover and receive, or poſſeſs himſelf of by virtue of theſe preſents, or any thing herein contained unto us the ſaid *M. S. F. I.* and *M. I.* or ſome, or one of us, or the ſurvivors or ſurvivor of us, or to ſuch other perſon or perſons as we, or the ſurvivors or ſurvivor of us, ſhall by writing under our hands or his or her hand for that purpoſe, at any time or times hereafter, order, direct, or appoint; and alſo, upon non-payment of any ſuch rent or rents, or arrears of rent, or rents of all or any of the aforeſaid plantations, &c. to make or cauſe to be made, any diſtreſs or diſtreſſes, and to take all due methods for the ſale thereof; and alſo, to make or cauſe to be made, any entry or entries, into or upon the whole, or any part of the aforeſaid plantations, &c. And alſo, for us, &c. and in our, and each of our names, &c. as executors as aforeſaid, but to our uſe, or to the uſe of the ſurvivors or ſurvivor of us, to aſk, demand, &c. of and from all, and every perſon and perſons whomſoever, now reſiding or being, or who ſhall, or may at any time or times hereafter, reſide or be within the ſaid iſland, &c. all and every ſuch ſum and ſums of money, goods, chattles and effects, and all other matters and things whatſoever, which at the death of the ſaid *M. P.* was or were due, owing, or pay-

able to him or his property, or which now is, or are, or at any time or times hereafter ſhall become due, owing, or payable to us, or to the ſurvivors or ſurvivor of us, or our, or either of our property as executors as aforeſaid, by any ways or means, or in any manner howſoever, and upon receipt or receipts thereof, or of any part thereof, for us, &c. and in our and each of our names, &c. or in the name of him our ſaid attorney, or otherwiſe to make and give ſuch receipt or receipts, diſcharge or diſcharges for the ſame as our ſaid attorney ſhall think proper; and alſo, for us, &c. as executors as aforeſaid, to ſettle any account or accounts wherein the ſaid *M. P.* in his life time, or wherein we the ſaid *M. S.* &c. or the ſurvivors or ſurvivor of us, as executors as aforeſaid, ſince the death of the ſaid *M. P.* now are or at any time or times hereafter, ſhall or may be any ways intereſted in or concerned with any perſon or perſons whomſoever, and to pay and receive the balance as the ſame ſhall happen to be; and alſo, for us, &c. and in and each of our names, &c. as executors as aforeſaid, to compound with any perſon or perſons, for or in reſpect of any debt or debts, ſum or ſums of money, which at the death of the ſaid *M. P.* deceaſed, was or were due, owing, or payable to him, or which ſhall or may at any time or times hereafter, become due, owing, or payable unto us, or the ſurvivors or ſurvivor of us. And alſo, for us, &c. and in our &c. as executors as aforeſaid, to appear and the perſons of us, or the ſurvivors &c. his ſaid; conſtituents to repreſent in all courts, and before all miniſters, and magiſtrates of law and equity ATTORNEY.

ATTORNEY. whatſoever in the ſaid iſland, &c. as to our ſaid attorney ſhall be thought adviſeable, and moſt conducive to our intereſt or to the intereſt of the ſurvivors, &c. as executors as aforeſaid, and to ſue, arreſt, diſtrain, ſeize, ſequeſter, impriſon and condemn, and out of priſon again to releaſe, acquit, and diſcharge all perſons and things whatſoever, indebted to the ſaid *M. P.* at his diſeaſe, or to which he had any lawful claim or demand; or indebted or which ſhall or may be indebted to us, or the ſurvivors, &c. or to which we now have, or to which we or the ſurvivors or ſurvivor of us may or can at any time hereafter as executors of the laſt will and teſtament of the ſaid *M. P.* deceaſed, have any lawful claim or demand, and alſo, to compound or compromiſe, ſubmit to arbitration, conclude and agree the ſame, as he our ſaid attorney ſhall think moſt proper, and for our and each of our benefit and advantage, and for that purpoſe for us, &c. and in our &c. as executors as aforeſaid, or in the name of our ſaid attorney, to enter into, make and execute ſuch bonds of arbitration, releaſes and diſcharges as ſhall be needful and neceſſary; and alſo for us &c. and in our &c. as executors aforeſaid, to uſe and take all ſuch ways and means for the managing, tranſacting and negotiating our and each of our buſineſſes and affairs, and for the recovering and getting in all ſuch ſum or ſums of money, goods, chattels or effects, in the ſaid iſland of &c. as our ſaid attorney ſhall think moſt fit and proper in any wiſe howſoever, and as we or either of us, or the ſurvivors or ſurvivor of us might, do, uſe or take if perſonally preſent, and alſo, to do

all and every ſuch further and other lawful acts and deeds, and other matters for the better executing and diſcharging the ſeveral powers and authorities hereby given as to him the ſaid *D. I.* ſhall ſeem meet, and for the better and more effectually executing the ſeveral powers and authorities hereby given, we do and each of us doth hereby impower and authoriſe the ſaid *D. I.* to make, conſtitute, and appoint ſuch other perſon or perſons as he ſhall think proper as his ſubſtitute or ſubſtitutes if he ſhall ſee occaſion, with full power to do, perform, and execute all and ſingular, or any of the powers, authorities, matters and things herein before contained and mentioned, in the ſame manner, as he the ſaid *D. I.* might or could do if preſent, and the ſame from time to time, at his will and pleaſure to revoke, and any other perſon or perſons to appoint as to him the ſaid *D. I.* ſhall ſeem meet, giving, and by theſe preſents granting unto our ſaid attorney, and to his ſubſtitute and ſubſtitutes, our and each of our full and whole power and authority, to do and act in the premiſes as fully and effectually to all intents and purpoſes, as we or either of us, or the ſurvivors or ſurvivor of us might or could do if perſonally preſent, ratifying, and by theſe preſents confirming all and whatſoever our ſaid attorney or his ſubſtitute or ſubſtitutes ſhall lawfully do or cauſe to be done in and about the premiſes, In witneſs, &c.

ATTORNEY.

Power to appoint a ſubſtitute (*a*).

(*a*) See ante, p. 14.

ATTORNEY. *Revocation (a) of Power of Attorney given to a Perſon quitting Jamaica, and Appointment of another in his ſtead.*

To all to whom theſe preſents ſhall come, WE *R. I.* and *F. I.* of, &c. merchants and copartners in trade, and alſo ſurviving partners in trade with *S. W.* and *K. I.* late of ——, merchants, deceaſed, ſend greeting. Whereas, we, the ſaid *R. I.* and *F. I.* as ſurviving partners as aforeſaid, are poſſeſſed of, or otherwiſe well intitled unto, a certain plantation or ſugar-work, with the appurtenances, in the pariſh of ——, in the iſland of ———, called —— plantation: AND alſo unto a certain other plantation or ſugar work, with the appurtenances, in the pariſh of ——, in the ſaid iſland of ———, called ——— plantation. AND we the ſaid *R. I.* and *F. I.* as ſuch ſurviving partners as aforeſaid, are alſo intitled to divers ſums of money, due and owing to us, from divers perſons on divers mortgages, judgments, bonds, ſpecialties, and other ſecurities in the ſaid iſland of ——. AND whereas *W. W.* late of the iſland of ——, eſq. who ſurvived *L. B.* late of —— aforeſaid, eſq. deceaſed, was heretofore appointed the attorney of us, the ſaid *R. I.* and *F. I.* and the ſaid *K. I.* as ſurviving partners of the ſaid *S. W.* in the life-time of the ſaid *K. I.* together with, or ſeparately from, the ſaid *L. B.* in the management of the aforeſaid

(a) Powers of attorney are in their nature revocable at pleaſure, though in ſome caſes reſtrained by courts of equity.

plantations and premiſes, and continued to act as ATTORNEY.
ſuch attorney for us, the ſaid *R. I.* and *F. I.* and the ſaid *K. I.* in the life-time of the ſaid *K. I.* and ſince, after the death of the ſaid *K. I.* for us, the ſaid *R. I.* and *F. I.*: AND whereas, the ſaid *W. W.* hath lately quitted the ſaid iſland of ——, and therefore we, the ſaid *R. I.* and *F. I.* as ſuch ſurviving partners, as aforeſaid, think it fit and neceſſary to nominate and appoint ſome other perſon, to act as our attorney in the ſaid premiſes, in the place and ſtead of the ſaid *W. W.* as hereinafter mentioned; NOW KNOW YE, that we, the Appointment.
ſaid *R. I.* and *F. I.* as ſurviving partners, as aforeſaid, for divers good cauſes, &c. have, and each of us hath, revoked and made void, and by theſe preſents do, and each of us doth revoke and make void, the ſaid power and authority ſo given to the ſaid *W. W.* as aforeſaid, and all and every other powers whatſoever. AND we, the ſaid *R. I.* and *F. I.* as ſurviving partners as aforeſaid, have, and each of us hath made, ordained, conſtituted, and appointed, and by theſe preſents, do, and each of us, doth make, ordain, conſtitute and appoint, *M. W.* of ———, in the ſaid iſland of ——, eſq. our true and lawful attorney, for us, and in our names to appear before the ſecretary and the other proper officers of the ſaid iſland of ——, and to acknowledge this preſent letter of attorney, or deed of revocation and appointment to be the proper act and deed of us, the ſaid *R. I.* and *F. I.* as ſuch ſurviving partners as aforeſaid, and likewiſe for us and in our names to uſe all lawful ways and means to cauſe and procure this preſent deed, or letter of

ATTORNEY. revocation, to be enrolled or regiſtered in the office of enrolments, or in the regiſter-office of the ſaid iſland of ———, and to do all other acts required and neceſſary for effecting ſuch revocation. AND we, the ſaid *R. I.* and *F. I.* ſurviving partners as aforeſaid, have, and each of us hath nominated, conſtituted, and appointed, and by theſe preſents do, and each of us doth nominate, conſtitute, and appoint the ſaid *M. W.* our true and lawful attorney, in the place and ſtead of the ſaid *W. W.* for us and in our names, as ſurviving partners as aforeſaid, or otherwiſe, to enter into and upon the ſaid plantations and ſugar-works, and premiſes aforeſaid, and each and every of them, and in caſe of any let or hindrance, to have, uſe, and take all lawful ways and means for obtaining and getting ſuch poſſeſſion, and when poſſeſſion thereof ſhall be had and taken, to ſuperintend and manage the ſame, and have, receive, and take the proceeds and produce thereof, for our uſe and benefit, and to make conſignment thereof, to us, or for our uſe or benefit, as we, from time to time, ſhall deſire or direct. AND alſo for us and in our names to aſk, demand, ſue for, recover and receive, all ſuch ſum and ſums of money, debts and demands whatſoever, which now, are, or hereafter ſhall or may become due and owing to us, the ſaid *R. I.* and *F. I.* as ſurviving partners as aforeſaid, or otherwiſe, from any perſon or perſons whomſoever, in the ſaid iſland of ———, upon mortgages, judgments, bonds, ſpecialties, notes, or on any other account whatſoever, and upon receipt thereof, or of any part thereof, acquittances, releaſes, or other diſcharges for the

ſame, for us, and in our names, or in his own name as our attorney, to give, make, and execute, and on non-payment thereof, or of any part thereof, to uſe and take all lawful ways and means, at law or in equity, for the recovery thereof, and of every part thereof, and generally to do all lawful acts and things whatſoever in the premiſes, as fully to all intents and purpoſes, as we, the ſaid *R. I.* and *F. I.* might or could do if perſonally preſent; and, further, one or more attorney or attornies, under him to conſtitute and appoint, and at pleaſure to revoke, hereby ratifying, allowing, and confirming all and whatſoever our ſaid attorney ſhall lawfully do, or cauſe to be done, in the premiſes by virtue of theſe preſents. IN WITNESS, &c. ATTORNEY.

Appointment of an Attorney, by Mortgagee in Poſſeſſion, to act in Jamaica, joinly with or ſeparate from an Attorney before appointed.

To all to whom theſe preſents ſhall come, I, *R. I.* of ——, (mortgagee in poſſeſſion of all that plantation works and grounds called the ———, plantation, in the pariſh of ———, in the iſland of ———,) ſend greeting, whereas I, the ſaid *R. I.* did, in and by a certain deed-poll bearing date on or about the month of ——, which was in the year ——, make, ordain, conſtitute, and appoint *C. L.* of the ſaid of ——, eſq. my true and lawful attorney, for managing the ſaid plantations and other the intents and purpoſes in the ſaid deed-poll mentioned. AND whereas, I am now deſirous to ap-

ATTORNEY. point *M. W.* of ——, gent. now about to ſail for the ſaid iſland of ——, my attorney, jointly with the ſaid *C. L.* for the purpoſes aforeſaid; Now know ye that I, the ſaid *R. I.* have made, ordained, authorized, conſtituted, and appointed, and by theſe preſents do make, ordain, authorize, conſtitute, and appoint the ſaid *M. W.* my true and lawful attorney, jointly with or ſeparately from the ſaid *C. L.* for the intents and purpoſes, and with all and every the powers and authorities mentioned and contained in the ſaid deed-poll, or letter of attorney hereinbefore recited or referred to, hereby ratifying, confirming, and allowing all and whatſoever the ſaid *M. W.* ſhall lawfully do or cauſe to be done, jointly with or ſeparately from the ſaid *L. C.* in and about the premiſes, under and by virtue of theſe preſents, or of the ſaid deed-poll, or letter of attorney hereinbefore recited or referred to. IN WITNESS, &c.

OF

ASSIGNMENTS.

IN offering ſome few remarks relative to a deed of aſſignment, I ſhall conſider

I. The nature of this ſpecies of Aſſurance.

II. What may be the ſubject of an Aſſignment.

III. The circumſtances requiſite to the validity of an Aſſignment.

IV. The effect and operation of an Aſſignment.

I. *Of the Nature of an Aſſignment.*

Of an aſſignment.

AN aſſignment, ſtrictly ſpeaking, ſeems to be the transferring or making over ſome eſtate or intereſt already in *eſſe*, from one perſon to another, in which ſenſe it includes every ſpecies of *executed* contract, which does not create a new eſtate. But in its more confined and technical ſenſe, it is appropriated to the transfer of ſome eſtate, either in chattel or equitable property in *which a third perſon*, not *a party to the aſſignment, has ſome right or intereſt.* See 2 *Blac. Com.* 326. 1. *Bac. Ab.* 8vo. 248. It is, however, uſually applied to an eſtate for life or

Difference between an underleaſe and an aſſignment.

years. 2 *Blac. Com.* 326. and hence the true difference with reſpect to leaſes, between an underleaſe and an aſſignment, appears to be not that which is uſually given, namely, that the firſt is the parting with a *leſs* intereſt than one's own, and an aſſignment of the *whole* of one's intereſt, but that a leaſe is the grant of a diſtinct eſtate, *de novo*, whilſt an aſſignment is the transfer of an *old* or *exiſting* eſtate. According to this definition of an aſſignment, the caſe in *Stra.* 405. holding, that an agreement between a leſſee and *B.* that *B.* ſhould hold the houſe, &c. for the remainder of his, the leſſee's term, paying and performing to the *leſſee*, the rents and covenants in the original leaſe, was not an aſſignment, but an underleaſe only, notwithſtanding there was no reverſion left in the leſſee, appears to be far more conſonant with the genuine diſtinction between them, than the later caſe of *Palmer* and *Edwards*, *Dougl.* 187, where *Buller* and *Willes*, (abſent *Mansfield* and *Aſhhurſt*) held, that every transfer of the *whole* intereſt of the leſſee, will be an aſſignment, even though the *leſſee reſerve rent, or introduce* a new covenant into the deed; for in this caſe the eſtate which paſſes from the leſſee is evidently, as appears to the Editor, not the ſame, but a *diſtinct* and *ſeparate* intereſt, though of the ſame *duration*.

Aſſignee does not in all caſes ſtand in the ſhoes of the aſſignor.

And where a perſon by aſſignment parts with his *whole* intereſt, it is ſtated, in moſt of our law treatiſes in which the ſubject of aſſignments is noticed, that "the aſſignee ſtands, *to all intents and purpoſes*, in the place of the aſſigner." See 2 *Blac. Com.* 326. 2 *Black. Rep.* 326. 766. 1 *Pow. Wood*, 563, this, however, appears to be too haſty a concluſion. And ſee 5 *Co.* 16. 3 *Bur.* 1271. 1 *Dougl.* 174.

What may be aſſigned.

II. *What may be the Subject of an Aſſignment.*

As a deed of aſſignment, like every other ſpecies of aſſurance is nothing elſe than an evidence or indication of a contract or agreement, it follows, that whatever may be the ſubject of an agreement, may alſo be the ſubject of that ſpecies of aſſurance which is calculated to transfer it to the bargainee, and *e contra*; hence the ſubject of this ſection has

in a great meaſure, been anticipated by the remarks which have been made on the SUBJECT MATTER OF AGREEMENT, (ante vol. 1. p. 25), ſome few obſervations are ſtill, however, referrible more particularly to this head.

By the common law nothing could be aſſigned over to another but what was in the actual poſſeſſion of the aſſignee, "the wiſdom and policy of the ſages and founders of our law having provided, that no poſſibility, right, title, or thing, in action, ſhould be granted or aſſigned to ſtrangers, leſt it ſhould be the occaſion of multiplying ſuits and contentions." See 10 *Co.* 48, *a. Co. Lit.* 214. 1 *Roll. Ab.* 376, *Skin.* 6. 26. Choſe in action.

This nicety is now, however, diſregarded, and our courts of *equity* conſidering, that, in a commercial country, almoſt all perſonal property muſt neceſſarily lie in contract, ſtill protect the aſſignment of a choſe in *action*, as much as the *law* will that of a choſe in *poſſeſſion* (*a*), though, in compliance with the ancient principle, the form of aſſigning a choſe in action is in the nature of a declaration of truſt, and an agreement to permit the aſſignee to make uſe of the name of the aſſignor, in order to recover the poſſeſſion (*b*), and therefore when in common acceptation a bond is ſaid to be aſſigned over, it muſt ſtill be ſued in the name of the original creditor; the perſon to whom it is transferred being rather an attorney than an aſſignee (*c*); 2 *Blac. Com.* 30. 10. *Co.* 48, *a.* 3 *P. Wms.* 199.

(*a*) Another principle upon which courts of equity proceed in eſtabliſhing aſſignments of choſes in action, whether with or without conſideration, is that the aſſignment ought in juſtice to the aſſignee, to be conſtrued to be a covenant on the part of the aſſignor, that the aſſignee ſhall thenceforth poſſeſs the thing aſſigned to his own uſe, which covenant or agreement the court will carry into ſpecific execution.

(*b*) See obſervations of Mr. Juſt. BULLER, on the aſſignment of *choſes in action*, in *Maſter* v. *Miller*, 4 *Durn.* and *E. Rep.* 320.

(*c*) See the diſtinction between an aſſignee and an attorney, or deputy, Term de la Ley, title *Aſſignee*.

and ſee the caſes collected 1 *Fonb. Eq.* 203, which, though they incontrovertibly eſtabliſh the principle that choſes in action, and intereſts in contingency, are aſſignable, yet they ſeem alſo to ſhow, that in the caſe of aſſignment of perſonal intereſts, equity will, in general, require the aſſignee to prove that he gave a *valuable* conſideration for the intereſt aſſigned, and will not, therefore, aſſiſt mere volunteers. Where, however, ſuch aſſignments have been conteſted as againſt executors, adminiſtrators, or heirs at law, the courts have eſtabliſhed them though not made for a *valuable*, but only for a *good* conſideration, as natural love and affection. Beckley *v.* Newland, 2 *P. Wms.* 182. Hobſon *v.* Trevor, *ib.* 192. Wright *v.* Wright, 1 *Vez.* 409. (*a*) Delany *v.* Stoddart, 1 *Durn.* and *E. Rep.* 26; and ſee Innes *v.* Dunlop, 8 *Durn.* and *E. Rep.* 595.

Perſonal intereſts.

Annuity.

It was alſo formerly doubted whether an *annuity* was at law aſſignable, even though *aſſigns* were mentioned in the grant, the argument being, that it was a mere perſonal contract, and therefore a choſe in action; and though this objection appears in ſtrictneſs to have ſome weight, yet it was even in a court of *law* over-ruled. *Hetl.* 80, and ſee 7 *Co.* 28 *b*, where it was fully reſolved, that expreſs words *would* make an annuity aſſignable. And as the *principle* of the objection is the ſame whether aſſigns be mentioned or not, it ſeems to be now equally aſſignable though they be *not* mentioned. And ſee *Co. Lit.* 8vo. 144 *b. n.* (1) *Sed vide Perk. ſ.* 101.

Bond.

And as in equity a *bond* is aſſignable for a valuable conſideration paid (*b*), and the aſſignee alone becomes entitled to the money, if the obligor after (*c*) notice of the aſſign-

(*a*) In this caſe a diſtinction appears to have been taken between the aſſignment of a poſſibility of *inheritance* and that of a *chattel real*, this diſtinction has however been over ruled.

(*b*) There muſt be a conſideration paid. 3 *Chan. Rep.* 90.

(*c*) 2 *Vern.* 540. But payment to the obligee without notice of the aſſignment, is good. 1 *Cha. Ca.* 232.

ment pays the money to the obligee, he will be compelled to pay it over again. 2 *Vern.* 595.

But the aſſignee muſt take it ſubject to the ſame equity that it was ſubject to in the hands of the obligee, as if on a treaty the intended huſband enters into a marriage-brokage bond, which is afterwards aſſigned to creditors, yet it ſtill remains liable to the ſame equity, and is not to be carried into execution againſt the obligor. 2 *Vern.* 428, 692. *S. P.* 764. *S. P.*

Poſſibility.

So if the adminiſtrator of a conuſee of a ſtatute, extends the lands, and a *liberate* is returned, and before entry or recovery of the poſſeſſion, the adminiſtrator aſſigns his intereſt, the aſſignment is void, for by the *liberate* he has accepted the poſſeſſion, and is eſtopped to ſay the contrary; and then by ſuffering the owner of the lands to continue in poſſeſſion, he turns his poſſeſſion into a right, which is not aſſignable until the poſſeſſion be regained by an ejectment, re-entry, or ſome other lawful means. 3 *Lev.* 312. *Stephens* and *Hunham.* 4 *Mod.* 48. 1 *Show.* 290. 2 *Salk.* 563. *S. C.*; and ſee *Fonb. Eq.* 213. 215.

And if there be a deviſe of a term to *A.* for life, remainder to *B. B.* cannot in the life-time of *A.* aſſign his intereſt, becauſe he has but a bare poſſibility, for *A.* may outlive the number of years. 10 *Co.* 47. and vide 1 *Sid.* 188. 1 *Chan. Ca.* 8. 2 *Vern.* 563.

Perſonal truſt.

A perſonal truſt which one man repoſes in another, cannot be (*a*) aſſigned over, however able ſuch aſſignee may be to execute it. See below.

Things aſſignable by ſtatute.

Several things are aſſignable by acts of parliament, which ſeem not aſſignable in their own nature; as promiſſory notes by 3 and 4 *Ann. c.* 9, bail-bonds by the ſheriff, by 4 and 5 *Ann. cap.* 16, a judge's certificate for taking and proſecuting a felon to conviction, by 10 and 11

(*a*) Truſtee cannot aſſign his truſt. 4 *Inſt.* 85. nor a guardian. *Vaugh.* 180. Whether a pawnbroker, by reaſon of the ſpecial property he has in the pledge, can aſſign it, *Q.* & *vide* 1. *Bulſt.* 31. *Owen* 124.

W. 3 *cap.* 23, a bankrupt's effects by the ſeveral ſtatutes of bankruptcy; which ſee 1 *Cook Bankr. L.* 26. 282. 1 *Fear. poſth. wrks.* 75. 83.

Guardianſhip in ſoccage cannot, according to the latter opinion, be aſſigned, *Gilb. Eq. Rep.* 177, nor can the full pay, 1 *Hen. Bl. Rep.* 627, nor the half pay, 3 *Durn.* and *E. Rep.* 681, 4 *ib.* 248, *ſed vid. contra*, 2 *Blac. Rep.* 11. 37. of an officer in the army; nor the wages of a ſeaman, 1 *Geo.* 2. *St.* 2. *c.* 14, *ſ.* 7. be aſſigned.

III. *The Circumſtances requiſite to the validity of an Aſſignment.*

Writing.

THE firſt requiſite ſince the ſtatute of frauds, to the validity of an aſſignment is, that it ſhall be in writing. See ſtat. 29, *Car.* 2. *c.* 3. ſec. 3, and ante vol. 1, p. 2. n. (*a*) under this ſtatute it has been held, that an aſſignment may be made by a mere *note* or *memorandum*, without being either ſealed or delivered, or even ſtamped. See 3 *Bur.* 2831, it would, however it is ſubmitted, (particularly with reſpect to the latter circumſtance,) be extremely imprudent in an aſſignee to be ſatisfied with ſo looſe a form;

Nor need the aſſignment of a choſe in action be by deed, 4 *Term Rep.* 690.

For ſo much of the ſubject adducible under this head as relates to perſons capable of making an aſſignment; and the conſideration neceſſary to ſupport it, it will be

Conſideration.

ſufficient to refer the reader to vol. 1. p. 4. 34.

To the latter point, however, it may be added, (beſides what has been incidentally noticed in the preceding page,) that no conſideration is in general neceſſary to ſupport the aſſignment of a leaſe, by tenant for years, becauſe the tenure, attendance, and forfeiture, incident to the aſſignees' eſtate, are alone, and independently of the rent reſerved, if any, ſufficient to veſt an uſe in the aſſignee; ſtill, however, it appears to be proper to inſert ſome valuable conſideration, as well in order to ſupport the aſſignment as a *contract*, ſhould there be occaſion to have recourſe to that expedient, as to enable the aſſignee to maintain a *poſſeſſory* action, if neceſſary, and, as the aſſignment

of itſelf transfers only the poſſeſſion in *law*, he cannot do this without a valuable conſideration be given (*a*). 1 *Mod.* 263. 2 *Roll. Ab.* 781. pl. 7.

The operative or transferring words commonly made uſe of in a deed of aſſignment, are "bargain, ſell, aſſign, transfer, and ſet over," which are ſometimes alſo preceded by "give and grant," for the purpoſe of enabling the aſſignee to plead the deed as a gift or grant, which, under particular circumſtances, may happen to be a convenience. See 2 *Blac. Com.* 441. Operative words.

As to the covenants, &c. proper to be inſerted in deeds of aſſignment, with the form of the inſtrument, ſee the enſuing precedents. Form.

IV. *Of the Effect and Operation of an Aſſignment; and the Eſtate of the Aſſignee.*

The effect of an aſſignment is a transfer of the *right of poſſeſſion* from the aſſignor to the aſſignee, who, without entry, is thenceforth poſſeſſed, in *law*, of the thing aſſigned, but not entirely, or in *fact* ſo poſſeſſed, the aſſignor having ſtill the *actual*, (though a mere *naked*) poſſeſſion, and the aſſignee a *right* of poſſeſſion only (*b*).

And though it was long conceived that the aſſignee of an aſſignee had, before actual entry, ſuch a poſſeſſion as to

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(*a*) But as in an eſtate for *years*, there can be no *ſeiſin* but only a *poſſeſſion* of an uſe, the aſſignment cannot be executed by 27 *Hen.* 8. See *Gilb. Uſes* 85, & *Pop.* 76. *Lutw.* 570. *Jones* 232. *Raym.* 487.

(*b*) It ſeems to be upon this principle, that it is held that the *aſſignee* of a *leſſee* is diſcharged from the covenants in the original leaſe by an aſſignment of his eſtate and intereſt therein, even though he ſtill continue in the poſſeſſion of the eſtate. See *Dougl.* 461; becauſe as after aſſignment nothing remains in him beyond a *mere naked poſſeſſion*, without any *right* there is no privity between the firſt aſſignee and the leſſor to ſupport an action of covenant.

ſupport an action on the covenants in the leaſe. See Pilkington *v.* Shaller 1 *Vern.* and Sparks *v.* Smith, *ibid.* yet a contrary doctrine ſeems now to be pretty well eſtabliſhed. See 2 *Danv. Ab.* 484. *Dougl.* 455, and ſee ante 223, n. (*a*).

The ſtudent will be furniſhed with much additional information relative to the eſtate of the aſſignee by the ſtat. 32 Hen. 8, c. 34, and the caſes which have been decided upon by the courts (*a*).

Grantees of of the king, any manors, lands, &c of any diſſolved monaſteries, &c. And all other grantees or aſſignees.

This ſtatute enacts, "that not only all perſons, and bodies politic, their heirs, ſucceſſors, and aſſigns, having any grant from the king of any lands, tenements, or other hereditaments, coming to his hands by the ſuppreſſion of monaſteries, &c. ſince the 27th year of his reign, "But alſo all *other perſons* being grantees (*b*) or aſſignees, to or by our ſaid ſovereign lord the king, or to or by any other perſon or perſons than the king's highneſs, and the heirs, executors, ſucceſſors and aſſigns of every of them (*c*)

(*a*) The principal of theſe caſes are induſtriouſly collected in *Lilly's Practical Conveyancer*; a book which deſerves to be more generally noticed.

(*b*) If the leſſor bargains and ſells the reverſion by deed enrolled, in conſideration of money, the bargainee is an aſſignee within the ſtatute. *Co. Lit.* 215, *a.* 1 *Leon.* 252. *Ow.* 151. *Godb.* 162. *Moore* 93, 98. *Cro. Eliz.* 833. 2 *Bulſt.* 181.

But he ſhall not take advantage to enter upon the leſſee, for a condition broken without giving notice of the bargain and ſale. *Co. Lit.* 215, *b.* 5 *Co.* 113. *b*; but otherwiſe of a covenant, *Godb.* 262. *Cro. Jac.* 476.

So if the leſſor grants his reverſion to the uſe of *A.* and his heirs, *A.* is a ſufficient aſſignee within the ſtatute. *Co. Litt.* 215. *b.* 4 *Leon.* 27. *Moore* 98.

(*c*) The ſtatute is general, *viz.* That the grantee of the reverſion of every common perſon as well as of the king, ſhall take advantage of conditions, for non-payment of rent, *&c. Co. Lit.* 215. *a.*

Aſſignee of the reverſion of a copyhold eſtate ſhall take advantage of covenants upon this ſtatute. 3 *Lev.* 327.

At the common law, if a man had made a leaſe for life, reſerving a rent, and if the rent be behind, a re-entry, and the

ſhall and may have and enjoy like advantages againſt the leſſees; (*d*) their executors, adminiſtrators and aſſigns, (*e*) by entry for non-payment of rent, or for doing of

ſhall have like advantages againſt the leſſees, their executors, &c.

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leſſor had granted the reverſion over, the grantee might diſtrain for the rent, but he could not take advantage of the condition; but now he hath the ſame remedy as the leſſor might have had, if it had not been aſſigned, *Co. Lit.* 215. *a.*

(d) The ſtatute ſpeaking only of leſſees doth not extend to gifts in tail, *Co. Lit.* 215. *a.* nor to covenants upon eſtates in fee, or in tail, but only upon eſtates made upon leaſes for lives, or years, *Cro. Eliz.* 864. *pl.* 40.

(e) A man leaſes by indenture, the leſſee covenants for himſelf and his executors (not aſſigns) to repair the houſe; covenant lies againſt the aſſignee, though not named, it being for the ſupport of the premiſes demiſed. 5 *Rep.* 24. *b.*

Covenant was brought againſt aſſignee of leſſee for rent; he pleads that he aſſigned to *J. S.* before any rent due; and held a good plea, becauſe it is ſuch a covenant which runs with the land 2 *Jac.* 2. *B. R. Carth.* 177. 1 *Salk.* 80. *Luc.* 158. 2 *Vent.* 208, the aſſignee being only chargeable in reſpect of the privity of eſtate; but it will lie againſt the leſſee upon his covenant. See *Cr. El.* 328. *pl.* 1. 2 *Lev.* 233. *Cr. Jac.* 309. *pl.* 8. 522 *pl.* 7.

Where there is leſſee for years, and the reverſion is granted for years, the grantee for years ſhall have the ſame benefit of the condition, as the grantor ſhould have had in reſpect of the word *Executors*. *Co. Lit.* 215. *a.*

But where there is leſſee for years, and he grants part of his term to another, and afterwards by bargain and ſale for money grants his reverſion to another, this would not, till 4 and 5 *Anne.* veſt in the grantee without attornment, becauſe the ſtatute of uſes extends only when an eſtate is granted by a perſon ſeiſed; and here he who granted the reverſion was only poſſeſt. *Jones* 217, 232. *Raym.* 487.

But where a man ſeiſed in fee, grants, bargains and ſells for years, in conſideration of money, here the ſtatute of uſes veſts the poſſeſſion in the leſſee without attornment, becauſe the leſ-

For non payment of rent, waſte, and other forfeitures. And alſo the remedies by action only for not performing the conditions, covenants, and agreements in the leaſes. Againſt leſſees and grantees, their executors and aſſigns. As the leſſors or the grantors might.

waſte or other forfeiture; and alſo ſhall and may have and enjoy all and every ſuch like, and the ſame advantage, benefit and remedies by action only, for not performing of other conditions, (*f*) covenants or agreements contained and expreſſed in the indentures of their ſaid leaſes, demiſes or grants, againſt all and every the ſaid leſſees and farmers, and grantees, their executors, adminiſtrators and aſſigns, as the ſaid leſſors or grantors themſelves, or their heirs or ſucceſſors ought, ſhould, or might have had, or enjoyed at any time or times, in like manner and form, as if the reverſion of ſuch lands, tenements or hereditaments had not come to the hands of our ſaid ſovereign lord, or as our ſaid ſovereign lord, and his heirs and ſucceſſors ſhould and might have had and enjoyed (*g*) in certain caſes, by virtue of the act (*h*) made at the firſt ſeſſion

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ſor is ſeiſed of the reverſion, and in the other caſe he is only poſſeſt, and ſo not within the ſtatute, but only at the common law. 2 *R.* 35.

(*f*) The grantee of part of the reverſion ſhall not have advantage of the condition, but he ſhall have the rent upon an apportionment. *Co. Lit.* 215. *a. vide tenant for years; for apportionment, vide poſt.* n. (*h*)

(*g*) Although the words of the ſtatute are for *non-payment of rent, doing of waſte, or other forfeiture*, yet the aſſignees ſhall not take advantage of every forfeiture by force of a condition, but only of ſuch forfeitures as are either incident to the reverſion, as rent; or for the benefit of the eſtate, as for not doing of waſte, or keeping the houſe or fences in repair, or for preſerving wood, or ſuch like. 5 *Co.* 18. *Moore* 159, 243, 876. *Ow.* 41. 1 *And.* 82. *Raym.* 250. 1 *Saund.* 159.

And not for payment of a ſum in groſs, delivery of corn, wood, or ſuch like collateral things. *Co. Lit.* 215. *b. Dy.* 304. *Mo.* 52, 243.

(*h*) By act in law, there may be an apportionment of a condition, *Co. Lit.* 215. *Sty.* 316. Alſo a rent may be apportioned, the manner how, *vide* 3 *Rep.* 24. *a. Co. Lit.* 147, *b.* 148, *a.* 1 *Ventr.* 276. 5 *Rep.* 6. *a.* 1 *Salk.* 141. *For.* 96. 2 *Lev.*

of this preſent parliament, if no ſuch grant by letters patent had been made by his highneſs.

"Moreover be it enacted by the authority aforeſaid, that all farmers, leſſees, and grantees, of lordſhips, manors, lands, tenements, rents, parſonages, tithes, portions, or any other hereditaments, for term of years, life or lives, their executors, adminiſtrators and aſſigns, ſhall and may have like action, advantage and remedy againſt all and every perſon and perſons, and bodies politic, their heirs, ſucceſſors, and aſſigns, which have, or ſhall have any gift or grant of the king our ſovereign lord, or of any other perſon or perſons, of the reverſion of the ſame manors, lands, tenements, and other hereditaments ſo let, or any parcel thereof, for any condition (*i*) covenant or agreement, contained or expreſſed in the indentures of their leaſe and leaſes, as the ſame leſſees, or any of them might or ſhould have had againſt the leſſors and grantors, their heirs or

And that all leſſees & grantees for years or life, their executors or aſſigns; ſhall have like advantage and remedy againſt the grantees, of the reverſions, or of any part, a condition, covenants &c. as the leſſees might have had againſt the leſſors or grantors.

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143. *Pollex.* 141. 3 *Keb.* 500, 505, 518, 541, 557. 11 *Geo.* 2.

Leſſor brought debt for a moiety of the rent reſerved on the leaſe againſt the aſſignee of the moiety of the term, and held that it well lies. *Jones* C. J. 104. *Carth.* 162.

Covenant lies againſt an aſſignee of Parcel. *Cr. Car.* 222. *pl.* 8. 1 *Rol. Ab.* 522. 1 *Jon.* 245; and ſee 1 *Lev.* 109. 1 *Sid.* 157. *Raym.* 80.

Covenant to repair copyhold runs with the land, by the common law, 3. *Lev.* 326; and is alſo within the ſtatute, as appears by the judgment. See alſo *Cro. Car.* 24. *pl.* 17 & 44.

(*i*) If a leaſe for life is made, reſerving a rent upon condition and the leſſor levies a fine of the reverſion, the conuſee is grantee or aſſignee of the reverſion, but without attornment he ſhall not take advantage of the condition, * for the makers of the ſtatute intended to have all neceſſary incidents obſerved, and not to ſupply any defects. *Co. Lit.* 215. *a.* 5 *Rep.* 112. 113.

* This is in caſe of a covenant at the common law, and not by the ſtatute of uſes; for uſes veſt without attornment; and all attornments are now taken away by the 4 and 5 *Anne*. *Vaugh.* 50. 6 *Rep.* 68. *a, b.*

Benefit of it, & advantage of recovering in value by voucher excepted.

succeſſors. All benefit of advantages of recoveries in value, by reaſon of any warranty or deed of law, by voucher or otherwiſe only excepted."

In a bargain & ſale, the ſtat. of uſes executes the poſſeſſion of the reverſion, without attornment.

In a bargain and ſale enrolled the uſe paſſes from the party, and the ſtatute of uſes executes the poſſeſſion, and the party hath no remedy to compel attornment, neither is there any default in him, and therefore the reverſion ſhall be in him without attornment. 6 *Rep.* 68. b. Nay the book goes further, and ſays, *Note*, a good reſolution for all conveyances on conſideration of marriage, bargain and ſale enrolled or otherwiſe, upon limitation of uſes, upon fines levied, or recoveries, whereby there is great ſafety to thoſe to whoſe uſes they are levied; which is alſo good for the common-wealth, that thoſe in reverſion ſhall not be barred from recovering their rents, which in all equity and reaſon are due to them, and no inconvenience to the particular tenant. For upon the execution of eſtates by the ſtatute of uſes, as covenants in conſideration of blood, or upon bargain and ſale enrolled, &c. there needs no attornment. 6 *Rep.* 68. a. 69. b. (*k*) *Note*, Though now there needs no attornment, (*l*) yet the bargainee ſhall not take advantage of a condition until notice be given him of his bargain and ſale, and this is by the ſtatute of 4 and 5 Ann.

In what caſes the covenants of the leſſee will run with the land and bind his aſſignee, will be more properly conſidered when we arrive at the head of COVENANTS. It may not be amiſs however, to notice the few following points relative to this ſubject.

Covenant to do a thing, part of the premiſes goes with the land, and ſhall bind the aſſignee, though not expreſsly bound.

When the covenant extends to a thing *in eſſe*, that is parcel of the demiſe, the thing to be done by force of the covenant is *quodammodo* annexed and appurtenant to the thing demiſed, and ſhall go with the land, and bind the aſſignee, although he is not bound by expreſs words. 5 *Rep.* 16. a, b. 24. a, b. *Godb.* 270.

(*k*) This was before the ſtatute of 4 & 5 *Anne.*

(*l*) By virtue of the ſtatute of 4 & 5 *Anne.*

But where a covenant extends to a thing which had not eſſence at the time of the demiſe made, this cannot be appurtenant or annexed to the thing which had not eſſence; as if the leſſee covenants to repair (*m*) the houſes demiſed to him during the term, this is parcel of the contract, and extends to the ſupport of the thing demiſed, and ſhall bind the aſſignee, although he is not expreſsly bound by the covenant. See *Styl.* 407, where it it is held that an aſſignee, though not ſtrictly, ſuch within the rules of law, yet he ſhall be announced ſo with reſpect to his liability to perform the covenant.

But not a covenant to do a thing not *in eſſe*, at the time of the demiſe.

But where the covenant concerns a thing which was not *in eſſe* at the time of the demiſe, but is to be done afterwards; this ſhall bind the convenantor, his executors and adminiſtrators, but not his aſſigns; for the law will not annex a covenant to a thing, which hath not a being. 5 *Rep.* 16. b.

If leſſee covenants for him and aſſigns to do a new thing on the land, it will bind his aſſigns.

If the leſſee had covenanted for him and his aſſigns, that they ſhould make a new wall upon part of the lands demiſed, becauſe it is to be made upon the lands demiſed, it ſhall bind the aſſignee: for although the covenants extends to a thing to be newly created, yet it is to be made upon the thing demiſed, of which the aſſignee ſhall have the benefit, and it ſhall bind him. 5 *Rep.* 16. b.

Covenant by leſſee, for him and his aſſigns, to do a collateral act, ſhall not bind an aſſignee.

But although the covenant is for him and his aſſigns, yet if the thing to be done is merely collateral to the land, and doth not in any ſort concern the thing demiſed; as a covenant to build a houſe upon other of the leſſor's land than that demiſed, or to pay a ſum of money to a ſtranger: (*n*) theſe things are merely collateral to the demiſe, whereto he is an aſſignee, and ſhall no more bind him than they ſhall a ſtranger. 5 *Rep.* 16, b. And

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(*m*) 5 *Rep.* 24. *a*, *b*.

(*n*) Leſſee covenants to pay to the church-wardens of *W.* forty ſhillings *per annum*, his aſſignee is not bound to pay it, it being a collateral thing. *Cro. Jac.* 438, 439. *pl.* 10.

where a leſſee covenanted for himſelf and his aſſigns, to rebuild a houſe before ſuch a time, which he did not, but after the time expired he aſſigned the term, it was adjudged that this covenant did not bind the leſſee, as it was broken before the aſſignment. 1 *Salk.* 199. *Gouldſh.* 129. *Cro. Eliz.* 457. *Moore*, 399, 400. *pl.* 523.

A covenant in a leaſe of goods ſhall not bind an aſſignee.

Where a man demiſes a ſtock of cattle, or other perſonal goods, for any time, and the leſſee covenants for him and his executors and aſſigns, at the end of the term to deliver other cattle as good, or ſuch a price for them, and the leſſee aſſigns over theſe cattle or goods, this covenant ſhall not bind the aſſignee becauſe this is but a perſonal contract, and there wants ſuch privity as there is between the leſſor and leſſee, and his aſſigns of the land in reſpect of the reverſion; but in caſe of a leaſe of goods there is not any privity or reverſion; but it is merely a choſe in action (*o*) in the perſonalty, which can bind none but the covenantor, his executors and adminiſtrators, who repreſent him. 5 *Rep.* 16, 17. a, b. *Hard.* 88.

A choſe in action is not aſſignable.

Aſſignment of a choſe in action, in equity, is a breach of covenant.

A covenant to repair, binds the leſſee, & all claiming under him.

If leſſee for years covenants to repair the houſes during the term, this ſhall bind all others claiming under him; for that they are things appurtenant to, and do run with the land in whoſe ſoever hands the ſame ſhall be, as well thoſe who come in by act of law, as by the act of the party. 5 *Rep.* 17. b. *Roll. Abr.* 521. *Cro. Eliz.* 457. *Moor*, 399. 5 *Co.* 24. *Godb.* 270.

An aſſignee and the executor of an aſſignee, and the aſſignee of an executor, may have covenant.

The aſſignee of an aſſignee, and the executor of an aſſignee, ſo the aſſignees of executors, or adminiſtrators of every aſſignee, ſhall have an action of covenant, becauſe they are comprehended under the word aſſignees. 5 *Rep.*

(*o*) A choſe in action or a poſſibility, is not aſſignable over. 5 *Rep.* 24. *b.* 25. *a.* C. J. *Jones* 151, 152. *Co. Lit.* 214. 1 *Rol. Ab.* 376. *Skin.* 6. *Raym.* 459; and ſee *Lucas* 245. 1 *P. Wms.* 252.

Where a man covenants not to aſſign a choſe in action, an aſſignment in equity is a breach of covenant.

17. b. *Carth.* 519. 1 *Salk.* 309, and need not ſet forth the intermediate aſſignments. *Ca. Law and Eq.* 72.

Aſſignee of a term may have remedy againſt aſſignee of the reverſion.

The aſſignee of a term ſhall have remedy upon a covenant, by way of retainer againſt the aſſignee of the reverſion, becauſe it runs with the land. *Cro. Car.* 137, 138. *Pl.* 503. 1 *Jones*, 242. *S. C.*

Covenant againſt aſſignee of parcel.

Covenant lies againſt an aſſignee of parcel. *Cro. Car.* 221, 222. *Pl.* 8. C. J. *Jones*, 104.

Aſſignee may take benefit of a covenant in law.

Aſſignee of a term ſhall take benefit of a covenant in law, for if the aſſignee of a term be evicted, he may bring an action of covenant againſt the leſſor, upon the word *conceſſit*, or *dimiſit*. 5 *Rep.* 17. a. 4 *Rep.* 80. b. *Vid.* 1 *Sid.* 266. 1 *Roll. Abr.* 521. *Dy.* 257. 5. *Co.* 17. b. 4 *Co.* 81. *Cro. Eliz.* 214. 2 *Leon.* 104. *Raym.* 257, or whether the leſſor or a ſtranger ouſt him, 1 *Roll. Abr.* 519. 2 *Leon.* 104. *Cro. Eliz.* 214, but he can have no other remedy. 1 *Bac. Abr.* (*c*)

Covenant lies not againſt aſſignee for breach of aſſignor.

Covenant lies not againſt an aſſignee for a breach of the aſſignor. *Lutw.* 363.

The following Opinions are introduced from the MSS. of Mr. POWELL, *in an Expectation that they will ſerve in ſome Degree, to illuſtrate ſome of the preceding Obſervations.*

Aſſignment of term by one executor.

I TAKE it to be ſettled law, that one executor (where there are many,) can aſſign a term as well as all together, in that reſpect, therefore, there ſeems no cauſe to make the executrix a party, unleſs it be for the purpoſe of her covenanting that ſhe has not incumbered. It is alſo, as I remember, laid down, that if another executor joins in the aſſignment, he ſhall be anſwerable to the teſtator's creditors for the money, though the ſaid executor receives it; and, if I recollect rightly, the caſe of *Churchill* and Lady *Hobſon*, in *Peere Williams* and *Salkeld*, contains that doctrine; and if ſo, this executrix ſhould not join in aſſigning, becauſe it is ſtated that there are debts of the teſtator to a conſiderable amount remaining unſatisfied. I am

1 *Salk.* 318.

See *Burn. Eccl. Law*, vol. 4. p. 282.

not ſatisfied that the making the executrix aſſign ſeparately, and in conſideration of 10s. will obviate the objection to her joining, becauſe if ſhe aſſigns, it muſt be as a principal, as being an executrix, and not in the nature of a releaſe of an equitable intereſt. If however ſhe once covenants that ſhe has not incumbered, I ſee no objection to her being a party, and it ſtrikes me that will ſufficiently anſwer the purchaſer's purpoſe.

Aſſignment to commiſſioners of bankruptcy caſe.

THE aſſignees of a bankrupt did not ſell all the real eſtates in the life time of the bankrupt; and as they could raiſe ſufficient to pay 20s. in the pound to all the creditors, out of the bankrupt's property, without ſale of all the real eſtates, the queſtion was, are they now compelled to ſell the ſame, and apply the ſurplus to the bankrupt's repreſentatives, according to the ſtatute of diſtributions?

1ſt. *Quere.*

As the aſſignees are friendly, and willing to ſerve the heir at law, and as their wiſh at preſent is to ſell no more of the freehold eſtates than will be ſufficient to diſcharge all the bankrupt's debts, and when that is done, as a conſiderable freehold eſtate, conſiſting of a manſion, manor, &c. will be left, whether ſuch freehold belongs to the heir at law, or not? And if you ſhould be of opinion that the ſame belongs to the heir, whether it will be ſafe for the aſſignees to convey to him, without the direction of the court? or will they be in any danger from future demands which may be made on them by the bankrupt's younger children? or whether they may venture to convey to the heir at law without going before the court, be giving the aſſignee ample ſecurity to indemnify them againſt all claims which may hereafter be made by the younger children:

Opinion.

THE creditors are entitled to be paid their full debts, and therefore if any of the debts carry intereſt, the aſſignees muſt apply the ſurplus beyond 20s. in the pound, on the debt proved, in the firſt place, in payment of intereſt accrued ſubſequent to the commiſſion, for which purpoſe the creditors ought to preſent a petition to the Chancellor, and if any contribution money has been paid

by the creditors, it ought to be repaid out of the eſtate. I think the aſſignees ought to ſhow no preference to the heir or next of kin, and particularly, I think, they cannot venture to make a conveyance to the heir of their own authority. The queſtion appears to me of conſiderable difficulty, whether the heir has a right to prevent a ſale of more of the real eſtate than is required for the payment of the unſatisfied debts.

If an actual ſale had been made by the aſſignees, ſo that the whole fund was now money in their hands, I think, upon the authority of the caſe of *Flanagan* and *Flanagan*, determined by Lord *Camden*, in *June*, 1768, the produce would belong to the next of kin, after payment of all the debts.

I think the mode of conveyance by the commiſſioners to the aſſignees, cannot alter the rights of the parties, and the queſtion will be, whether the acts of parliament have the effect of converting all the bankrupt's real property into perſonal, as between his heirs and next of kin. If the bankrupt himſelf had made a conveyance to truſtees to ſell, to pay his debts, and to pay the ſurplus produce to him, his executors, and adminiſtrators, and had died without doing any other act, the ſurplus, after payment of his debts, would have been perſonal eſtate. I ſtrongly incline to think the acts of parliament affecting a bankrupt's property, have the ſame effect, but I apprehend the point has not been decided.

Or whether it will be more proper after a final dividend ſhall be made, and every creditor paid 20s. in the pound, to apply to the court with a certificate from the commiſſioners, that all the debts proved under the commiſſion are paid in order to ſupercede the commiſſion, the bankrupt being deceaſed, ſo as to place ſuch part of the bankrupt's property unſold, in the ſtate it was before the commiſſion iſſued, in which caſe will the bargain and ſale to the commiſſioners be a bar? or will a re-conveyance from them to the heirs at law be effectual? as to ſuch real unſold property, or upon the ſtate of the caſe, what would you adviſe willing aſſignees to do? 2d. *Quere.*

Opinion.

The bankrupt acts directing aſſignees to pay the ſurplus to the executors, adminiſtrators, and aſſigns, of the bankrupt, I think his adminiſtrators, as he died inteſtate, may apply to the Chancellor by petition, to take the account of the aſſignees, and that they may proceed forthwith to a ſale of the eſtates unſold, and pay the remaining debts, &c. and pay over the ſurplus to the adminiſtrator. And the heir at law may petition to the ſame effect, except praying that the leaſehold may be firſt ſold, and that ſo much only of the freehold as may be neceſſary, may be ſold, and that the freehold eſtate remaining unſold, after paying all the debts, &c. may be conveyed, and the ſurplus produce of the freehold which may be ſold beyond what ſhall be neceſſary to pay the debts, &c. may be paid to the heir at law. On theſe petitions the whole queſtion will be before the Chancellor. Perhaps his lordſhip may think it too conſiderable a queſtion to decide in a ſummary way, and in a judicature which admits of no appeal from his judgment, and he may therefore direct the parties to inſtitute a ſuit for the purpoſe of having the queſtion ſolemnly determined, as the heir is one of the next of kin, he may file a bill, which will bring the whole before the court, claiming firſt as heir the whole ſurplus, and ſuppoſing the court to be againſt him on this point, claiming as one of the next of kin his ſhare, poſſibly it would be moſt adviſable, if the family are well diſpoſed to each other, to inſtitute a ſuit at once, without putting the parties to the expence of croſs petitions, on which the court may decline to decide; and as no fact can be diſputed, the anſwer of the aſſignees, adminiſtrators, and next of kin, to a bill by the heir may be filed without oath, and the point decided at no great expence, without the conſent of the heir and next of kin. I think the aſſignees cannot act but under a judicial deciſion.

Opinion of a late Solicitor General, as to the effect of conveying Freeholds to executors, ſo as to make them aſſignees.

It remains to conſider a point which Mr. —— has treated as clear, namely, whether the conveyance of a freehold leaſe for lives, to *A.* his executors, &c. in truſt for *B.* his executors, &c. is a valid conveyance, and if valid, makes the freehold eſtate no longer a freehold, but converts it into perſonal aſſets of *B.* diſpoſable as perſonal chattels, by an infant, and by a will not atteſted; this ſeems to me very queſtionable. The caſes in 2 *Roll. Ab.* 151. *G.* 2 and 3, contradict each other. The firſt is an inaccurate extract from *Dyer* 3286, and is ſtated the other way in *Comyn. Dig.* eſtates. The ſecond is clearly a deciſion to the contrary, and the caſe in *Moore* 664, *Cro. Eliz.* 901, is accordingly. In the caſe in *Roll.* it is expreſsly ſtated as the ground of the deciſion, that the freehold cannot go to the executor, and ſo *Peere Williams* ſeems to have underſtood, 3 *P. Wil.* 264, *N. D.* In Kendall *v.* Micfield, *Barnard, C. R.* 46, the maſter of the rolls ſeems to have thought that an eſtate *per autre vie*, might be conveyed either to a man, his executors, adminiſtrators, or aſſigns, or to a man, his heirs and aſſigns, but he ſtates no authority for his opinion. Suppoſing a man may make an executor a ſpecial occupant of a freehold, yet I ſtrongly doubt whether an adminiſtrator can (except under the words of a ſtatute,) be made a ſpecial occupant, for I apprehend the law will not admit a freehold to be in ſuſpenſe, and that a perſon claiming to be entitled as a ſpecial occupant, muſt be entitled to enter inſtantly on the death of a tenant, *per autre vie*. This title an adminiſtrator cannot have, though an executor may. In 2 *Vern.* 1719, it was held that the conveyance of an eſtate, *per autre vie*, in truſt for *A.* his executors, &c. made it as perſonal eſtate, and this was confirmed by Lord *King*, *Sel. Ca.* in *Chan.* 71; but it muſt be obſerved that this was a deciſion in favour of creditors. upon truſt, and by no means decided, that an adminiſtra-

tor could be made at law a ſpecial occupant, nor did it decide that the next of kin were entitled to any ſurplus. It ſeems to me, therefore, that the caſe in 2 *Vern.* 719, and *Sel. Caſ.* in *Chan.* 71, which are in truth the ſame caſe, are the only deciſions on the ſubject upon which it can be contended that a freehold leaſe, conveyed in truſt for a man, his executors, and adminiſtrators, is to be deemed perſonal eſtate, independent of the proviſions by the ſtatutes of 29 *Cha.* II. and 14 *Geo.* II, and upon that caſe it might be properly deemed aſſets for payment of debts conſidering the executor as a ſpecial occupant in equity, without determining that the conveyance changed the freehold intereſt into a chattel, and conſidering the executor as taking a freehold, for I apprehend the convention of parties cannot convert a freehold into a chattel, to be acted upon in ſpecie, though by a conveyance of a freehold to a truſtee, in truſt to ſell the benefit of a freehold in the ſhape of produce by ſale, in the hands of the truſtee, and conſequently in the ſhape of money, may be veſted in another as perſonal eſtate, whilſt the freehold remains in ſpecie, or freehold and diſpoſable as ſuch, in the hands of the truſtee. Even the legiſlature, by the ſtatute of frauds, did not convert a freehold eſtate *per autre vie*, where there was no ſpecial occupant into a chattel, though it gave the eſtate to an executor or adminiſtrator, and, on the contrary, in Oldpan *v.* Pickering, *Carth.* 376, 1 *Salk.* 464, and other books, it was held that the adminiſtrator took only for payment of debts, and debts being paid, he held as ſpecial occupant, and, without being compellable to make diſtribution, and therefore the 14 *Geo.* II. *c.* 20, *S.* 9, made ſuch an eſtate in the hands of an executor or adminiſtrator, under ſuch circumſtances diſtributable as perſonal eſtate, ſtill however I conceive the action can only convey to a purchaſer or the next of kin by a freehold conveyance, for the ſtatute does not ſay that any other conveyance ſhall be effectual; in the report of Weſtfaling and Weſtfaling. 3 *Atk.* 466, Lord *Hardwicke* is ſtated to have ſaid, that if a leaſe *per autre vie*, was made to *A*, his executors and adminiſtrators, the executor ſhould take as ſpecial

occupant. But he is alſo ſtated to have relied on the paſſage in *Rolle*, which does not truly repreſent the caſe in *Dyer*, and which is followed by a contradictory deciſion. So that I think that doctrine cannot be relied upon; and I obſerve Mr. *Hargrave* has doubted the authority in *Co. Lit.* 416, 4. In Williams and Jekyl, *v.* Elliot and Jekyl, 2 *Vez.* 681, the ſame idea ſeems to have been prevalent in Lord *Hardwicke*'s mind, but he reaſons the caſe expreſsly on the ground of occupancy of a freehold, and he takes pains to declare that he determined that caſe on the nature of the original leaſe, viz. to the leſſee, his executors, adminiſtrators, and aſſigns. In the caſe in *Dyer*, 328, the original leaſe ſeems to have been in the ſame form, but livery of ſeiſin was made accordingly. The reaſoning in *Vaughan*, 199 to 201, is ſtrong, to ſhow that an executor or adminiſtrator cannot take a freehold eſtate *per autre vie*, by force of the original grant, and in many other caſes the ſame idea ſeems to have prevailed, and I can find no deciſion expreſsly to the contrary. I therefore ſtill feel conſiderable doubt whether a leaſe for lives granted to a man, his heirs and aſſigns, can be conveyed to another, his executors and adminiſtrators, ſo as to make an executor or adminiſtrator take by force of the conveyance as an aſſignee, and therefore as a ſpecial occupant, and if ſuch conveyance can be made, I ſtill think that the executor or adminiſtrator can take only as occupant, and conſequently can take only a freehold, and conſequently takes that which can be diſpoſed of only by a freehold conveyance.

PRECEDENTS

OF

ASSIGNMENTS.

I. Assignments to Purchasers.

Aſſignment of a Leaſe purchaſed before a Maſter in Chancery.

PURCHASES.

Parties.

This Indenture of six parts, made, &c. between *H. I.* of —, in the county of —, ſurviving executor of the laſt will and teſtament of *C. I.* late of ——, deceaſed of the firſt part, *B. R.* of ——, *P. I.* late of ——, and *W. D.* of ——, executors of the laſt will and teſtament of *B. R.* late of ——, of the ſecond part, *C. I.* of ——, adminiſtrators of the goods and chattels, rights and credits of *C. E.* (formerly *W. B. E.*) his late wife deceaſed, who was the adminiſtratrix of the goods and chattels, rights and credits of *B. G.* late of ——, her former huſband, deceaſed, and alſo adminiſtratrix of

the goods and chattels, rights and credits of *B. S.* ſpinſter, an infant deceaſed, one of the children of the ſaid *B. G.* and *C. E.* of the third part, of —, &c. one other of the children of the ſaid *B. G.* and *E.* his wife, and adminiſtrator of the goods and chattels, rights and credits of the ſaid *G. B.* his late father, deceaſed, left unadminiſtered by the ſaid *E. C.* deceaſed. AND alſo adminiſtrator of the goods and chattels, rights and credits of the ſaid *S. B.* his ſiſter, deceaſed, left unadminiſtered by the ſaid *E. C.* of the fourth part, *W. I.* of ——, &c. and *E.* his wife, *B. T.* of —, and *B. A.* of ——, an infant under the age of twenty-one years, (that is to ſay) of the age of — years, or thereabouts, which ſaid *J. E. B. T.* and *B. A.* are three other of children of the ſaid *B. G.* and *E. B.* of the 5th part, and *C. I.* of ——, of the 6th part. WHEREAS, by indenture bearing date the — day of ——, 17—, the wardens and commonalty of the myſtery of mercers of the city of ——, did demiſe to *A. G.* all that, &c. &c. TO HOLD from the feaſt day of the annunciation of the Bleſſed Virgin Mary, then laſt paſt before the date thereof, for the term of — years under ſuch rents and covenants as therein mentioned. AND whereas, the ſaid *A. G.* expended and laid out the ſum of — and upwards, in and about new building three meſſuages or tenements, on the aforeſaid premiſes according to his covenant in the ſaid recited indenture of leaſe. AND whereas, by ſeveral meſne conveyances and aſſignments in the law and otherwiſe, the ſaid recited indenture of leaſe and leaſed premiſes, and the meſſuages or tene-

PURCHASES.

Recital of leaſe from the mercers company.

Of building three meſſuages.

Which by meſne, conveyances became veſted in B. G.

PURCHASES. ments and buildings thereon erected or built by the ſaid *A. G.* as aforeſaid, with the appurtenances afterwards became legally veſted in the ſaid *B. G.* deceaſed, for the remainder of the ſaid term of — years thereby demiſed. AND whereas, by one other indenture, bearing date the — day of ——, —, *R. R.* ſpinſter, and *R. E.* ſpinſter, did demiſe unto the ſaid *B. G.* deceaſed, all thoſe two pieces of land, with their and every of their appurtenances, to hold from the — day of ——, then next enſuing the date thereof for the term of — years, under ſuch rents and covenants as therein mentioned. AND whereas, the ſaid *B. G.* expended and laid out the ſum of — and upwards in the erecting, building, and completing two brick and four timber meſſuages or tenements on the ſaid demiſed premiſes, in purſuance and performance of his covenant in the ſaid laſt recited indenture of leaſe. AND whereas, by indenture tripartite, bearing date the 3d day of ——, —, and made between the ſaid *B. G.* deceaſed, by his then name and addition of *B. G.* of ——, in the pariſh of ——, and county of ——, ——, of the firſt part, the ſaid *C. E.* by her then name and addition of *F. E.* of the ſaid pariſh of ——, and county of ——, aforeſaid, ſpinſter, of the ſecond part, *C. I.* eſq. of the third part. [After reciting to the effect hereinbefore recited.] AND alſo that a marriage was intended to be then ſhortly had and ſolemnized between the ſaid *B. G.* and *E. F.* it was witneſſed, that in conſideration of the ſaid intended marriage, and for other the conſiderations therein mentioned, he, the ſaid *G. B.* did aſſign unto the ſaid *C. T.* and *C. I.* all that the ſaid or-

Leaſe for 99 years.

Indenture of ſettlement on marriage of ſaid *B. G.*

chard and gardens, and all thoſe meſſuages or tenements, &c. &c. and all other the premiſes in and by the laſt above recited indenture of leaſe, demiſed to hold to the ſaid *C. T.* and *C. S.* their executors, adminiſtrators, and aſſigns, from thenceforth, for all the reſidue and remainder of the ſaid ſeveral and reſpective terms of — years and — years, in and by the ſaid two ſeveral recited indentures of leaſe granted and demiſed as aforeſaid, upon ſuch truſt as are therein and herein after mentioned, (that is to ſay), in truſt to permit the ſaid *B. G.* to receive the clear rents of the ſaid premiſes for ſo many years of the ſaid terms of — and — years, as he ſhould live, and after his deceaſe, in caſe the ſaid *E.* ſhould ſurvive him upon truſt, that the ſaid *E.* ſhould receive during ſo many years of the ſaid terms of — years and — years, as ſhe ſhould live; one annuity, or yearly rent-charge of £— to be iſſuing and paid out of all or any of the ſaid premiſes, half yearly, as therein mentioned: and after the death of the ſaid *B. G.* (ſubject to the ſaid annuity of £— to the ſaid *E.* for her life as aforeſaid), upon truſt to pay the reſidue of the rents of the ſaid premiſes unto the executors or adminiſtrators of the ſaid *B. G.* or ſuch other perſon or perſons as he ſhould appoint; and after the death of the ſaid *E.* in caſe ſhe ſhould have one or more children by the ſaid *B. G.* who ſhould live to attain the age of twenty-one years, then upon further truſt, that they the ſaid *C. T.* and *C. I.* or the ſurvivor of them, or the executors or adminiſtrators of the ſurvivor, ſhould PURCHASER.

PURCHASER. AND whereas the ſaid *B. R.* and *B. I.* the truſtees named and appointed in and by the ſaid recited indenture of the — of ——, are alſo both long ſince dead, and the ſaid *B. R.* being the ſurvivor, departed this life in or about the month of ——, having made his will, and thereof appointed his ſons, the ſaid *B. R. P. T.* and *W. D.* (parties hereto,) joint executors thereof, who have all duly proved the ſame. AND whereas the ſaid *C. E.* died in or about the month of ——, whereby, and on the death of the ſaid *B. S.* by virtue of, and under the hereinbefore recited indenture of aſſignment and ſettlement of the — day of ——, the ſaid *B. G.* (party hereto) *I. E.* (now the wife of the ſaid *I. W.* or he in her right) *B. T.* and *B. A.* became equally intitled to the annuity or yearly rent of ——, for the remainder of the ſaid two ſeveral terms of —— and —— years, and the ſaid *C. I.* as adminiſtrator to his ſaid late wife, is become entitled to ſuch part, ſhare, and intereſt in the ſaid two ſeveral hereinbefore recited indentures of leaſes, and the premiſes thereby leaſed, as ſhe the ſaid *C. E.* was entitled to on the death of the ſaid *B. S.* the infant as aforeſaid. AND WHEREAS by a decree bearing date the —— day of ——, made by the maſter of the rolls, in a certain cauſe depending in the High Court of Chancery, wherein the ſaid *R. B. P. T.* and *W. D.* as executors of the ſaid *B. R.* deceaſed, and the ſaid *B. T.* and *B. A.* then infants, and two of the children of the ſaid *B. G.* and *E.* his wife, deceaſed, by their next friend are plantiffs, and the ſaid *I. W.* and *E.* his wife, *B. G. C. I.* and *H. T.* are defendants, it was

Truſtees in laſt ſettlement dead

Further deduction.

Recital of a decree.

PURCHASER.

amongſt other things, ordered and decreed, that it ſhould be referred to ——— one of the maſters of the ſaid court, to take an account of the perſonal eſtates of the ſaid inteſtate *B. G.* in the manner thereby directed. AND the ſaid *B. G.* being an ancient freeman of ———, his honour declared, that under the cuſtom and ſtatute of diſtribution of inteſtate eſtates, the ſaid *E.* the widow was entitled to four-ninths of the clear ſurplus of the ſaid inteſtate perſonal eſtates, and his five children equally among them to the other five-ninths, and that under the deed of aſſignment of the ——— day of ———, the inteſtate's five children became entitled equally to the ſaid four-ninths, which belonged to the *E.* the widow, (except as therein mentioned.) AND it was ordered that the ſaid clear reſidue of the ſaid perſonal eſtates, conſiſting of five-ninths belonging to the ſaid teſtator's children, and of the ſaid four-ninths after ſuch deduction as therein mentioned, ſhould be divided into five equal parts; and his honour declared, that one-fifth part thereof belonged to the ſaid *B. I.* one other fifth to the ſaid *B. A.* one other fifth to the ſaid *B. G.* one other fifth to the ſaid *I. W.* and *E.* his wife, in right of the wife, and that the remaining fifth belonged to the ſaid *B. S.* and ſhe dying inteſtate, after making the ſaid deed, and in the life time of the ſaid *E.* her mother, his honour declared that her ſaid fifth part became diſtributable among her ſurviving brothers and ſiſters, and the ſaid *E.* her mother, and it was ordered that the laſt mentioned fifth ſhould likewiſe be divided into five equal parts, namely, one-fifth to the ſaid *B. I.*

And references to a maſter to take an account.

And that B. G. was a freeman of London. Shares in reſpect thereof.

Order thereupon.

PURCHASER. one other fifth to the ſaid *B. A.* one other fifth to the ſaid *B. G.* one other fifth to the ſaid *I. W.* and *E.* his wife, in right of the wife, and the remaining fifth to the ſaid *C. I.* as adminiſtrator of *E.* his late wife. AND whereas by a ſubſequent order made in the ſaid cauſe, bearing date the —— day of——, after taking notice (amongſt other things) of the ſaid hereinbefore recited decree, and that it would be for the benefit of all parties intereſted, to have the ſaid leaſehold eſtates ſold before the maſter as therein mentioned, it was (amongſt other things) ordered that it ſhould be referred to the ſaid maſter to ſet a value on the ſaid annuity of ——, charged on the leaſehold eſtates in queſtion, by the ſaid indenture of the —— day of ——, and that the ſaid leaſehold eſtates ſhould be ſold, diſcharged from ſuch annuity, with the approbation of the ſaid maſter, to the beſt purchaſer or purchaſers that could be got for the ſame, to be allowed of, by the ſaid maſter, and that all proper parties ſhould join in ſuch ſale, as the ſaid maſter ſhould direct. AND WHEREAS in purſuance of the ſaid decree, and ſubſequent order, a particular of the ſaid leaſehold premiſes was laid before the ſaid maſter for the ſale thereof, and for that purpoſe were divided into two lots, for two ſeparate buildings, and lot one of ſuch particulars contained all the premiſes compriſed in, and demiſed by the above recited indenture of leaſe of the —— day of ——; and lot the ſecond, contained all the premiſes compriſed in, and demiſed by the above recited indenture of leaſe of the —— day of ——, all which ſaid leaſehold premiſes, were afterwards

Of ſubſequent order, for ſale before a maſter,

and that the ſame were accordingly put up to ſale.

(to wit,) on the —— day of ——, duly put up to sale accordingly, and all the premises comprised in lot one were duly sold to the said *C. I.* as the best bidder, for the sum of ——, And the said master by his report, bearing date the said —— day of ——, allowed the same, which report was afterwards (to wit,) on the —— day of ——, then next following, absolutely confirmed by an order of the said court. AND WHEREAS the said master, made his report, bearing date the —— day of ——, and thereby allowed *H. W.* esquire, (therein named) the best purchaser of the premises comprised in the said lot No. 2, at the sum of ——. AND WHEREAS by an order bearing date the —— day of ——, made at the instance of *M. T.* (therein named,) It was ordered that it should be referred back to the said master, to allow of a better bidder for the premises comprised in the said lot No. 2, and that the person who should be allowed the next best bidder for the premises therein comprised, should deposit the sum of ——, in the bank, in part of his purchase money, in manner therein mentioned. AND WHEREAS in pursuance of the said decree, and of the subsequent orders of the —— of ——, and —— of ——, the said master did on the —— day of ——, allow the said *C. I.* the best bidder for the premises comprised in lot No. 2, at the sum of ——, upon his making a deposit of ——, in part of the said purchase money in the manner directed by the said order of the —— of —— last past. AND WHEREAS in pursuance of the said last mentioned order, the said *C. I.* on the —— day of ——,

PURCHASER.

Master's report of H. W's being the best purchase.

Order for referring back to the master to allow of a better bidder.

Allowed accordingly,

PURCHASER.

and depoſit paid.

paid into the bank the ſaid ſum of ——, as a depoſit, to be placed to the account of the accountant general, and to the credit of the ſaid hereinbefore mentioned cauſe, in the ſaid maſter's office in the books kept at the bank, for the ſuitors of the ſaid court of chancery, as by the accountant generals certificate appears: AND WHEREAS by another order of the ſaid court of chancery, made in the ſaid cauſe, the —— day of ——, the ſaid *C. I.* was abſolutely confirmed the beſt purchaſer of the premiſes compriſed in lot No. 2: AND WHEREAS by an order of the lord high chancellor, bearing date the —— day of ——, after taking notice (amongſt other things) that the ſaid *C. I.* had paid the purchaſe money between the parties entitled thereto, except ——, being the proportion thereof belonging to the ſaid *B. A.* the infant, it was ordered, that the ſaid *C. I.* ſhould pay into the bank, the ſum of ——, together with ——, due for intereſt thereon, as therein is expreſſed, with the privity of the accountant general, to be placed to the account of this cauſe, ſubject to the further order of the court, and that thereupon he ſhould be let into poſſeſſion of the premiſes compriſed in the ſaid lots No. 1 and 2, and receive the rents and profits thereof, from the —— day of ——, the ſaid *C. I.* undertaking to anſwer for the deficiency of the purchaſe money (if any). AND WHEREAS by another order of the ſaid lord high chancellor, dated the —— day of ——, now laſt paſt, after taking notice, (amongſt other things) that the ſaid inteſtates leaſehold eſtates had been ſold to the ſaid *C. I.* for ——, and that he had

Recital of an order, whereby C. was confirmed the beſt purchaſer,

and of ſeveral orders reſpecting the purchaſe money,

and of a further order,

paid the ſum of ——, into the bank, as a depoſit, which then and now remains in the bank, placed to the credit of this cauſe, and that the ſaid purchaſe money by the ſaid order of the —— day of ——, was directed to be divided into four equal parts, between the ſaid *B. I.* and *B. A.* and *I. W.* and his wife, in right of the wife, and *B. G.* each of which ſhare amounted to ——, and that the ſaid *C. I.* had, in purſuance of the ſaid order of the —— day of ——, paid to the ſaid *B. I. I. W.* and *E.* his wife, and *B. G.* their reſpective ſhares of the ſaid ——, of the purchaſe money, and had alſo paid into the bank with the privity of the ſaid accountant general, and to the credit of this cauſe, the ſum of —— and ——, for the intereſt thereof, making together ———, which with the ſaid —— paid into the bank by way of depoſit, as aforeſaid, making together ———, being the ſhare of the ſaid *B. A.* of the ſaid purchaſe money and intereſt, it was ordered the ſaid ——— ſhould be laid out in the purchaſe of bank 3 per cent. annuities, in the names and with the privity of the ſaid accountant-general, in truſt, in the ſaid cauſe for the benefit of the ſaid *B. A.* as therein mentioned. Now this indenture witneſſeth, that for and in conſideration of the ſum of —— of lawful money of *Great Britain*, to the ſaid *B. T.* and of the like ſum of —— of like lawful money to the ſaid *I. W.* and *E.* his wife, and of the like ſum of ——, of lawful money to the ſaid *B. G.* in hand ſeverally paid by the ſaid *C. I.* in manner aforeſaid, being in full of their reſpective ſhares of the ſaid ——— purchaſe, the receipt of which ſaid ſeveral ſums of

PURCHASER.

directing the application of the purchaſe money.

Indenture witneſſeth. Conſideration of the payment of the money accordingly.

PURCHASER. ——, ——, and ——, the ſaid *B. I. W. I.* and *E.* his wife, and *B. G.* do hereby reſpectively acknowledge, and thereof, and of and from every part thereof, do ſeverally acquit, releaſe, and diſcharge the ſaid *C. I.* his executors, adminiſtrators, and aſſigns, by theſe preſents, and alſo in conſideration of the ſum of —— and ——, making together ——, ſo paid into the bank, in the name and with the privity of the ſaid accountant-general, to be placed to the credit of this cauſe, and ſubject to the further order of the ſaid court, in manner as aforeſaid, being the ſhare of the ſaid *B. A.* of the ſaid purchaſe money and intereſt, and which ſaid ſeveral ſums of —, —, —, —, and —, ſo paid as aforeſaid, make together the ſum of ——, being the full purchaſe monies for the ſaid eſtates, and intereſt, as aforeſaid. And alſo of 5*s.* of like lawful money of *Great Britain*, to them the ſaid *H. I. B. R. P. I. W. D. C. I.* and *B. A.* in hand ſeverally paid, at or immediately before the ſigning and ſealing of theſe preſents, the receipt whereof is hereby acknowledged, the ſaid *H. I.* in part performance of the ſaid decree of the — day of ——, and the ſaid ſubſequent orders of the — of ——, — of ——, and — of —— now laſt paſt, as alſo at the requeſt of the ſaid *B. R. P. I. W. D. C. I. B. G. I. W.* and *E.* his wife, *B. I.* and *B. A.* (teſtified by their being parties to, and ſeverally executing of theſe preſents,) hath aſſigned, transferred, and ſet over, and by theſe preſents doth aſſign, transfer, and ſet over. And the ſaid *B. R. P. I. W. D. C. I. B. G. I. W.* and *E.* his wife, *B. T.* and *B. A.*

Aſſignment and confirmation.

have, and each of them hath bargained, ſold, aſ- PURCHASER.
ſigned, ratified, and confirmed, and by theſe
preſents do, and each of them doth bargain, ſell,
aſſign, ratify, and confirm, unto the ſaid *C. I.* his
executors, adminiſtrators, and aſſigns, all and
ſingular the ſaid, &c. all which ſaid premiſes were Parcels.
the two leaſehold eſtates of the ſaid *B. G.* deceaſed,
compriſed in lots No. 1 and 2, and ſold before
the ſaid maſter to the ſaid *C. I.* for the ſaid ſum
of — and —, making together the ſum of —.
And all the eſtates, right, title, intereſt, term and
terms of years, property, benefit, claim, and de- General words.
mand, whatſoever, both in law and equity, of
them the ſaid *H. I. B. R. P. I. W. D. H. I. B. G. W. I.* and *E.* his wife, *B. I.* and *B. A.* or either
of them, of, in, and to, or out of the ſame pre-
miſes, and every part and parcel thereof, in any
wiſe howſoever. TO HAVE AND TO HOLD the Habendum.
ſaid orchard and gardens, and two pieces or par-
cels of land, meſſuages, or tenements, and all and
ſingular other the premiſes hereinbefore men-
tioned, and intended to be hereby ſeverally and
reſpectively aſſigned, ratified, and confirmed, with
their and every of their appurtenances unto the
ſaid *C. I.* his executors, adminiſtrators and aſſigns,
from the —— day of ——, for and during all the for the reſidue of the ſaid terms,
reſt, reſidue and remainder of the ſaid ſeveral and
reſpective terms of —— years, and —— years,
which were therein, then ſeverally and reſpectively
to come and unexpired, ſubject nevertheleſs to
the rents and covenants in the ſaid ſeveral re-
cited indentures of leaſe reſpectively contained,
and which from the ſaid —— day of ——, were

PURCHASER. and ought on the tenant or leſſee's part and behalf to be paid, kept, done, and performed, but freed and abſolutely releaſed and diſcharged of, from, and againſt the ſaid annuity or yearly rent charge of — charged thereon and payable thereout by the ſaid hereinbefore recited indenture of aſſignment and ſettlement, of the — day of ——, and of, from and againſt all claims and demands whatſoever, which they the ſaid *H. I. B. R. P. I. W. D. C. I. B. G. I. W.* and *E.* his wife, *B. I.* and *B. A.* any or either of them, have or hath, in or to the ſame, in any wiſe howſoever; and the ſaid *H. I.* for himſelf, his executors, and adminiſtrators, doth covenant, promiſe, and declare, to and with the ſaid *C. I.* his executors, adminiſtrators, and aſſigns, that he the ſaid *H. I.* hath not at any time heretofore made, done, or committed, or wittingly or willingly ſuffered any act, matter, or thing, whatſoever, whereby, or by means whereof the ſaid premiſes hereby aſſigned or mentioned, or intended ſo to be, or any part thereof, or the ſaid ſeveral terms of 61 years and 99 years, or either of them is, are, ſhall, or may be ſurrendered, forfeited, impeached, charged, or incumbered, in title, intereſt, form, eſtate, or otherwiſe, howſoever. And the ſaid *B. R. P. W.* and *W. D.* for themſelves ſeverally and reſpectively, and for their ſeveral and reſpective executors and adminiſtrators, and not the one for the other, or the executors or adminiſtrators of the other, doth covenant, promiſe, and declare, to and with the ſaid

ſubject to the covenants in the leaſes (*a*).

Covenant that truſtee has done no act to incumber (*a*).

Like covenant from the perſons equitably intereſted.

(*a*) See ante, p. 218, 224. (*b*) See poſt title COVENANT.

C. I. his executors, adminiſtrators, and aſſigns, that they the ſaid *B. I. P. I.* and *W. D.* have not nor have or hath, either of them at any time heretofore made, done or committed, or wittingly or willingly ſuffered any act, matter or thing whatſoever, whereby or by means whereof the ſaid premiſes hereby aſſigned or mentioned, or intended ſo to be, or any part thereof, or the ſaid ſeveral terms of —— years and —— years, or either of them, is, are, ſhall or may be ſurrendered, forfeited, impeached, charged, or incumbered in title, intereſt, form, eſtate, or otherwiſe howſoever, and the ſaid *C. I. B. G. B. I.* and *B. A.* for themſelves, ſeverally and reſpectively, and for their ſeveral and reſpective executors and adminiſtrators, and not the one for the other, or for the executors or adminiſtrators of the other, do covenant, promiſe, &c. [the like covenant as above.] And the ſaid *I. W.* for himſelf and the ſaid *E.* his wife, and for his executors and adminiſtrators, doth covenant, promiſe, and declare, to and with the ſaid *C. I.* his executors, adminiſtrators and aſſigns, that they the ſaid *I. W.* and *E.* his wife, have not, nor have or hath, or either of them, at any time heretofore, made, done, or committed, or wittingly or willingly ſuffered any act, matter, or thing whatſoever, whereby, or by means whereof, the ſaid premiſes hereby aſſigned or mentioned, or intended ſo to be, or any part thereof, or the ſaid ſeveral terms of —— years and —— years, or either of them, is, are, ſhall or may be ſurrendered, forfeited, impeached, or incumbered in title, intereſt, form, eſtate, or otherwiſe howſoever. In witneſs, &c. PURCHASER.

LEASE.

Aſſignment of a Leaſe ſold by Auction. "Drawn by Mr. PICKERING." *Pow.* MS.

Parties.

THIS indenture made between *C. E.* of &c. of the 1ſt part; *W. W.* of &c. of the 2d part; *S. S.* of —, &c. widow, relict, and reſiduary deviſee of *S. U.* formerly of —, &c. her late huſband aforeſaid, and ſole executrix of his laſt will and teſtament of the 3d part; *E. J.* late of, &c. of the 4th part; and *D. J.* &c. of the 5th part. WHEREAS by indenture of leaſe and releaſe, bearing date reſpectively the — and — days of ——, in the year of our Lord ——, and a fine acknowledged and levied in Trinity term, in the —— year of his preſent Majeſty's reign, before his juſtices of the court of Common Pleas, at Weſtminſter, by the ſaid *S. T.* and the ſaid *S.* then his wife to the ſaid *C. E.* and *W. W.* and the heirs of the ſaid *C. E.* purſuant to a covenant for that purpoſe, contained in the ſaid indenture of releaſe; the manor of —, otherwiſe ——, otherwiſe ——, otherwiſe —— called ——, otherwiſe ——, otherwiſe ——, with the appurtenances and divers meſſuages, farms, lands, tenements, and hereditaments, ſituate, lying and being in ——, and ——, and other places in the county of ——, and alſo, a moiety of the rectory of ——, aforeſaid, with the appurtenances thereon, the eſtate of the ſaid *S. U.* were ſubject to two principal ſums of £.——, and ——, due and ſecured to *M. P.* of ——, in the county of ——, eſquire, by virtue of the mortgage and ſecurity in the ſaid indenture of releaſe mentioned,

Recital of a leaſe and releaſe. And of a fine.

Whereby the premiſes were conveyed to truſtees in truſt to ſell.

and the intereſt for the ſame principal ſums and other charges and incumbrances in the ſame indenture mentioned, which have been ſince ſatiſfied and diſcharged, conveyed and aſſured unto and to the uſe of the ſaid *C. E.* and *W. W.* and their heirs upon truſt, (among other things) with all convenient ſpeed, to ſell and diſpoſe of the ſame by auction or otherwiſe, and entirely, or in parcels, for ſuch price or prices, ſum or ſums of money as to the ſaid *C. E.* and *W. W.* or the ſurvivor of them, his heirs or aſſigns ſhould ſeem reaſonable, and out of the money or monies ariſing by ſuch ſale or ſales, to pay off, ſatisfy and diſcharge the ſaid ſum of ——, and ——, then due and owing to the ſaid *M. P.* on the ſaid mortgage, and ſecurity, and all intereſts, coſts, charges, and expences that ſhould be due and in arrears, for or on account of the ſame, and to pay, apply, and diſpoſe of the reſidue of the money or monies ariſing by ſuch ſale or ſales, in ſuch manner as in the ſaid indenture of releaſe mentioned. AND whereas the ſaid *S. U.* being by virtue of an indenture of leaſe heretofore made and granted to him by the Dean of the cathedral church of the Holy and undivided Trinity of ——, of the foundation of king Edward VI. and under the chapter of the ſame church, poſſeſſed of or entitled to the half part of the church, benefice and parſonage of ——, aforeſaid, with the appurtenances for the remainder of a term of 21 years; he the ſaid *S. U.* aſſigned the ſame to the ſaid *C. E.* for the remainder of the ſaid term, and by way of mortgage for ſecuring to him the ſaid ſum of ——, and intereſt which hath

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And out of the produce to pay of the ſaid mortgages, &c.

And to diſpoſe of the reſidue as therein mentioned.

Recital of a leaſe of which the ſaid S. U. was poſſeſſed and aſſigned by way of mortgage.

LEASE.

And of a renewal of ſaid leaſe.

been ſince paid off and diſcharged, and the ſaid leaſe becoming renewable, the ſame was with the conſent of the ſaid *S. U.* ſurrendered and given up by the ſaid *C. E.* to the ſaid dean and chapter, to the ends and intents, that a new leaſe ſhould and might be made and granted thereof to him by them, and thereupon by indenture bearing date the — day of ——, in the year of our Lord ——, and made or expreſſed, to be made, between *H. P.* doctor in divinity, dean of the ſaid cathedral church, and the chapter of the ſame church of the one part, and the ſaid *C. E.* of the other part, the ſaid dean and chapter with their whole aſſent and agreement, did demiſe, grant, and to farm let, unto the ſaid *C.* all that their half of the church benefice and parſonage of ——, in the ſaid county of ——, with all the glebe lands, tithes, and all other members, profits, and rights, commodities, advantages, and appurtenances whatſoever, there to the ſaid dean and chapter by reaſon of their half part of the ſaid church, benefice, and parſonage of ——, aforeſaid, in any wiſe, by any manner or means belonging and appertaining, (except as therein excepted), to hold the ſame (except as before excepted,) unto the ſaid *C. E.* his executors, adminiſtrators, and aſſigns, from the — day of ——, then laſt, for and during the term of 21 years, from thence next enſuing, fully to be complete, and ended at and under ſuch yearly rent, reſervations and payments, and under, and ſubject to ſuch covenants, proviſos conditions and agreements, as therein mentioned, expreſſed and contained, on

the part of the ſaid *C. E.* his executors, adminiſtrators, and aſſigns, to be paid, kept, obſerved and performed. AND whereas, the ſaid *S. U.* departed this life in the month of ——, in the ſaid year ——, having firſt made and publiſhed his laſt will and teſtament in writing, bearing date the — day of —, in the ſaid year ——, and thereby gave all his goods, chattels, and perſonal eſtate, unto the ſaid *S.* his wife, and made her ſole executrix of his ſaid will: AND whereas, in order that all and every the aforeſaid manor, meſſuages, farms, lands, and hereditaments, in the ſaid county of ——, and the ſaid moiety of the ſaid rectory of ——, compriſed in the aforeſaid indentures of the leaſe and releaſe, might be diſpoſed of, and according to the intent and meaning of, the ſaid indenture of releaſe, the ſame were together with the ſaid half part of the ſaid church, benefice and parſonage of —, aforeſaid, and all the glebe lands, tithes, and other appurtenances thereto belonging, which by the aforeſaid indenture of the — day of June, ——, were demiſed and granted by the dean and chapter to the ſaid *C. E.* for the ſaid term of 21 years, by the directions of the ſaid *C. E.* and *W. W.* ſeveral times advertiſed in the public newſpapers, to be ſold by auction at the —— tavern in ——, *London*, on ——, the — day of —— laſt, between the hours of — and —, in the afternoon, to the higheſt bidder at which time and place the aforeſaid *E. J.* and ſeveral other perſons attended and bid for the ſame and the ſaid *E. J.* then, and there bid for the ſaid manor, meſſuages, farms, lands and hereditaments, and the ſaid moiety of the ſaid rec-

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And of the death of S. U. having firſt made his will.

And that in order that the ſaid premiſes might be diſpoſed of.

The ſame were advertiſed for ſale by auction.

At which time the ſaid E. I. attended and was the beſt bidder for the ſame.

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tory, compriſed in the aforeſaid indenture of leaſe and releaſe, with their appurtenances, and the ſaid half part of the ſaid church benefice and parſonage, and all the glebe lands, tithes, and other appurtenances thereto belonging, which by the ſaid indenture of the third day of ——, —, were demiſed and granted to the ſaid *C. E.* for the aforeſaid term of twenty-one years, the ſum of £——, which being the moſt money that was then bid for the ſame, he, the ſaid *D. J.* was declared and agreed to be the purchaſer or buyer thereof, at the ſaid price or ſum of £—. AND whereas, the name of the ſaid *E. I.* was made uſe of at ſuch auction and in ſuch bidding and agreement for the ſaid purchaſe as aforeſaid, in truſt only for the ſaid *D. I.* AND whereas, all intereſt which accrued and became due to the ſaid *M. P.* for the ſaid ſums of £— and £— to the day of the date hereof, was paid and diſcharged, and by indentures of leaſe and releaſe, the leaſe bearing date the day next before the day of the date of the releaſe, and the releaſe bearing even date herewith, all the ſaid manor, meſſuages, farms, lands, and hereditaments, and moiety of the ſaid rectory of ——, compriſed in the aforeſaid indentures of leaſe and releaſe, with their rights, members, and appurtenances, have, (in conſideration of the ſum of £——, paid by the ſaid *D. J.* to the ſaid *M. P.* and the ſaid *C. E.* and *W. W.* in the ſhare and proportions following, (that is to ſay) the ſum of £—, part thereof to the ſaid *M. P.* in full ſatisfaction and diſcharge of all money due and owing to him by virtue of his ſaid mortgage and ſecurity of the ſum of £—, reſidue thereof, to the ſaid *C. E.* and *W. W.*) been by the

and was thereupon declared the buyer, and that the ſaid E. I. was a truſtee for the ſaid D. J. and that all intereſt on the ſaid mortgage was diſcharged.

And of leaſe and releaſe, whereby manors, &c. compriſed in ſaid indentures,

have, in conſideration of ſaid ſum of —— paid by ſaid D. J. in manner herein mentioned,

order and direction of the ſaid *E. J.* accordingly conveyed and aſſigned unto, and to the uſe of the ſaid *D. J.* and his heirs, NOW THIS INDENTURE WITNESSETH, that for and in conſideration of the ſaid ſum of £— by the ſaid *D. J.* ſo paid to the ſaid *M. P.* and the ſaid *C. E.* and *W. W.* in the ſhares and proportions aforeſaid, and alſo for and in conſideration of the ſum of 10s. a piece of lawful money of *Great Britain*, to each of them, the ſaid *C. E.* and *S. S.* at or upon the ſealing and delivering of theſe preſents well and truly paid by the ſaid *D. J.* the payment and receipts whereof are hereby acknowledged, he, the ſaid *C. E.* with the privity of the ſaid *W. W.* and by the order and direction of the ſaid *S. S.* and *J. E.* teſtified by their being parties to, and ſeverally ſealing and delivering of theſe preſents, and alſo the ſaid *S. S.* by the order and direction of the ſaid *J. E.* teſtified in manner aforeſaid, have, and each of them hath, bargained, ſold, aſſigned, transferred, and ſet over, and by thoſe preſents do, and each of them doth, bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *D. J.* his executors, adminiſtrators, and aſſigns, all that the aforeſaid half-part of the church benefice and parſonage of ——, aforeſaid with all the glebe-lands and tithes, and all other members, profits, rights, commodities, advantages, and appurtenances whatſoever, then to the ſaid dean and chapter, by reaſon of the ſaid half-part of the ſaid church benefice and parſonage of —— aforeſaid, in any wiſe, by any manner of means belonging and appertaining, which in and by the ſaid hereinbefore in part recited indenture of the — day of

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been by order and direction of ſaid E. I. conveyed and aſſigned unto the ſaid D. J. and his heirs. *Now this Indenture witneſſeth*, that in conſideration, &c.

he, the ſaid C.E. with the privity of the ſaid W. W and by the order and direction, &c.

have bargained, ſold, &c.

unto the ſaid D. J. &c.

All that, &c.

PURCHASER. ——, &c. were demiſed and granted, or intended to be demiſed and granted by the ſaid dean and chapter, to the ſaid *C. E.* for the ſaid term of

General words. twenty-one years, and all the eſtates, right, title, intereſt, term of years yet to come, and unexpired property, poſſeſſion, benefit of renewal, claim, or demand whatſoever, both at law and in equity, of them, the ſaid *E. C.* and *S. S.* and each of them, of, in, to, or out of the ſaid half-part, glebe-lands, tithes, and all other the premiſes hereby bargained, ſold, and aſſigned, or intended ſo to be,

To hold the ſame and every part and parcel thereof, to have and to hold the ſaid half-part of the church benefice and parſonage of ——, aforeſaid, glebe-lands, tithes, and all other the premiſes hereby bargained, ſold, and aſſigned, or intended ſo to be, with their and every of their appurtenances, unto the

unto the ſaid *D. J.* for the reſidue yet to come of the ſaid term, ſaid *D. J.* his executors, adminiſtrators, and aſſigns, from henceforth for and during all the reſt, reſidue, and remainder of the ſaid term of twenty-one years, by the ſaid indenture of the third day of

under the rents, &c. ——, &c. granted which is now to come and unexpired: under and ſubject nevertheleſs to the rents, reſervations, payments, covenants, (*a*) proviſos, conditions, and agreements, by and in the ſaid laſt mentioned indenture reſerved and contained, which from the — day of ——, laſt, ought, on the tenant or leſſee's part, to be paid, rendered, kept, obſerved, and performed, and the ſaid *C. E.*

Several covenants from and *S. S.* do hereby for themſelves ſeverally,

(*a*) See poſt Covenants, 2 Vern. 276. ibid 374.

but not jointly, nor the one for the other, or the heirs, executors, adminiſtrators, acts or deeds, of the other of them, but each of them for him and herſelf, and his and their ſeveral and reſpective heirs, executors, adminiſtrators, acts and deeds only, covenant, promiſe, and agree to and with the ſaid *D. J.* his executors, adminiſtrators, and aſſigns, that they, the ſaid *E. C.* and *S. S.* or either of them, have not, nor hath at any time or times, heretofore made, done, committed, or executed, or wittingly or willingly permitted or ſuffered, any act, deed, matter, or thing whatſoever, whereby or wherewith, or by reaſon or means whereof the ſaid half-part, glebe-lands, tithes, and other the premiſes hereby bargained, ſold, and aſſigned, or intended ſo to be, or any of them, or any part or parts of them, are, is, or can, ſhall, or may be any ways impeached, charged, effected, or incumbered in title, eſtate, or otherwiſe howſoever, or the ſaid term of 21 years, granted by the ſaid indenture of the third day of ——, &c. mortgaged, extinguiſhed, forfeited, ſurrendered, or become void, or voidable. In witneſs, &c.

PURCHASER.

C E. and S. S. that they have done no act to encumber or extinguiſh ſaid premiſes.

Aſſignment of a Leaſe by Indorſement.

KNOW all men by theſe preſents, that we, *I. S.* and *N. D.* of ——, in the pariſh of ——, &c. merchants, executors of the laſt will and teſtament of *G. N.* in the deed-poll before indorſed hereinnamed in conſideration of the ſum of £— of law- Conſideration.

PURCHASER. ful money of Great Britain, to us in hand well and truly paid by *S. I.* of &c. at or immediately before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, have bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents do, bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *S. I.* his executors, adminiſtrators, and aſſigns, the meſſuage, tenement, or dwelling-houſe, and all and ſingular other the premiſes in and by the within indenture demiſed, and by the above deed-poll aſſigned, or intended ſo to be, and all benefit and advantage had and taken thereby, or by virtue of any thing therein contained; and all the eſtate, right, title, intereſt, poſſeſſion, property, profit, claim, and demand whatſoever, of them the ſaid *S. I.* and *D. N.* of, in, and to the ſame, to have and to hold the ſaid meſſuage or tenement, and all and ſingular other the premiſes hereby aſſigned or mentioned, or intended ſo to be, and every part thereof, with their and every of their rights, members, and appurtenances unto the ſaid *S. I.* his executors, adminiſtrators, and aſſigns, from henceforth for and during all the reſt, reſidue, and remainder of the term of twenty-one years, in and by the within indenture demiſed, and all ſuch other term and terms of years, eſtate, and intereſt as the ſaid *I. S.* and *D. N.* or either of them have or hath therein and from thenceforth to come and unexpired, and ſubject nevertheleſs to the payment of the rent and performance of the covenants in the within written indenture of leaſe reſerved and contained by and on the part and behalf of the leſſee, his executors, adminiſtrators, and aſ-

Transfer.

Habendum.

For the remainder of the term.

ſigns, to be paid, kept, done, and performed from the — day of this preſent month of ——, and the ſaid *S. C.* and *N. D.* do hereby for themſelves, their executors and adminiſtrators, covenant, promiſe, declare and agree to and with the ſaid *S. I.* his executors, adminiſtrators, and aſſigns, by theſe preſents in manner following (that is to ſay) that they, the ſaid *S. C.* and *N. D.* have not, nor hath either of them at any time heretofore made, done, committed, or wittingly or willingly ſuffered, nor did the ſaid *M. G.* in his life-time make or do any act, deed, matter, or thing whatſoever whereby or by reaſon or means whereof the ſaid meſſuage, tenement and premiſes within mentioned, demiſed, and above aſſigned, or any part thereof, or the ſaid indenture of leaſe, or either of them, are, is, ſhall, or may be impeached, charged, or incumbered, in title, charge, eſtate, or otherwiſe howſoever, and that the ſaid leaſe is a good and ſubſiſting leaſe for all the remainder of the ſaid term, and not become void or voidable. AND alſo that he, the ſaid *S. I.* his executors, adminiſtrators, and aſſigns, ſhall and may from time to time, and at all times hereafter during the remainder yet to come and unexpired, of the ſaid term of twenty-one years, peaceably and quietly have, hold, uſe, occupy, poſſeſs, and enjoy, the ſaid meſſuage or tenement and premiſes, mentioned to be hereby aſſigned with their and every of their appurtenances, and receive and take the rents, iſſues, and profits thereof to his and their

PURCHASER.

Covenant that the aſſignors have done no act to incumber, (*a*)

that aſſignee ſhall peaceably enjoy. (*a*)

(*a*) See poſt, title RELEASE.

PURCHASER. own uſe from the day of the date hereof, without any lawful let, ſuit, hindrance, interruption, or denial of or by the ſaid *C. S.* and *D. N.* their executors or adminiſtrators, or any other perſon or perſons whomſoever, and that they, the ſaid *C. S.* and *D. N.* their executors and adminiſtrators, and all other perſons lawfully claiming, or who ſhall or may hereafter claim, any eſtate, right, title, truſt, or intereſt, of, in, or to or out of the ſaid premiſes mentioned to be hereby aſſigned, ſhall and will from time to time, and at all times hereafter during the continuance of the ſame term, make, do, and execute, or cauſe and procure to be made, done, and executed, all and every ſuch further or other lawful and reaſonable act and acts, conveyances and aſſurances in the law whatſoever for the further better and more perfect aſſigning, aſſuring, and confirming the ſaid meſſuage or tenement, and premiſes mentioned to be hereby aſſigned with their and every of their appurtenances unto the ſaid *S. I.* his executors, adminiſtrators, and aſſigns, for and during all the reſidue and remainder, which will be therein then to come and unexpired, of the ſaid term of twenty-one years as by the ſaid *S. I.* his executors, adminiſtrators, or aſſigns, or his or their council ſhall be reaſonably deviſed, adviſed, or required. In witneſs, &c.

for further aſſurance.

Aſſignment of a Mortgage of Eſtates in Ireland, (a) with further grant for Securing more Money advanced, and ſpecial clauſe to ſell, &c.

This indenture made the — day of ——, in the —— year of &c. and in the year of our Lord ——, between (*b*) *M. W.* and *H. I.* both of ——, bankers and co-partners of the firſt part *R. P.* of ——, and *J. J.* of ——, of the ſecond part; the moſt noble —— of —— and *G. D.* of —— in the kingdom of *Ireland*, knight, and *S. I.* ſon of the ſaid *G. D.* of the third part; *L. I.* of ——, eſquire, and *G. I.* of ——, eſquire, of the fourth; and ——, of ——, eſquire, of the fifth part; and ——, of ——, eſquire of the ſixth part; and ——, of ——, eſquire, of the ſeventh part. WHEREAS *H. G.* died the — day of ——, which was in the year of our Lord ——, having duly made and publiſhed his laſt will and teſtament in writing, bearing date the — day of ——, and did thereby ſubject and charge all his eſtates, real and perſonal whatſoever and whereſoever, to and with the payment of all ſuch annuities, as he had at any time or times theretofore granted or ſettled, to or upon any perſon or perſons whatſoever, and alſo, of ſuch annuities and pecuniary legacies as were by him therein,

Parties.

Recital of the death of Earl of ——, having made his will.

(*a*) See *Elem. Conv.* Bk. ii. Par. iii. ch. v.

(*b*) As to Parties to an aſſignment of a mortgage, ſee *Pow. Mort.* 202, 204. 2 ibid, 965, 969.

MORTGAGE. after given or bequeathed, and of all ſuch other annuities, proviſions, and ſums of money as he ſhould at any time or times thereafter by any codicil or codicils thereto, or by any writing whatſoever under his hand, grant, bequeath, or appoint, to or for any perſon or perſons whatſoever, and ſo ſubjected and charged, did thereby give and deviſe, all and ſingular, his manors, meſſuages, lands, tenements, and hereditaments whatſoever, and whereſoever, and all other his real eſtates, unto his nephew *A. T.* ſince deceaſed, for the term of — years, if he ſhould ſo long live, without impeachment of waſte, and from and after his deceaſe, ſave and deviſe the ſaid manors, meſſuages, lands, rents, tenements, hereditaments, and real eſtates, unto the eldeſt ſon of the body of the ſaid *A. T.* then living, which ſaid eldeſt ſon was *G. D.* party hereto, for —— years, if he ſhould ſo long live without employment of waſte, remainder unto *R. B.* and *P. M.* eſquires, and their heirs during the life of the eldeſt ſon of the ſaid *A. T.* in truſt, to preſerve contingent remainders, remainder unto the firſt and other ſon and ſons of the body of ſuch eldeſt ſon ſucceſſively in tail male, with divers remainders over with power, to ſuch of the ſaid deviſes as ſhould be in actual poſſeſſion of the ſaid eſtates, to charge the ſame or any part thereof, with any ſum not exceeding £.——, ſterling, for his younger child or children, in caſe of his having an eldeſt or only ſon who ſhould attain the age of 21 years, or with any ſum not exceeding ——, ſterling, for his daughter or daughters, in caſe of his not having

any ſon who ſhould attain that age, and the intereſt to be applied towards the maintenance and education of ſuch younger child or children, or daughter or daughters, with other powers as herein mentioned, and the ſaid teſtator in and by his laſt will alſo gave and bequeathed all his perſonal eſtate, of what nature or kind ſoever which he ſhould be poſſeſſed of or entruſted in, and intitled unto at the time of his deceaſe; but in the firſt place, ſubject to and charged with the payment of the annuities, and pecuniary legacies before mentioned unto the ſaid *B. R.* and *N. M.* their executors and adminiſtrators in truſt, to inveſt the ſame or the monies, to ariſe by ſale thereof in the purchaſe of manors, meſſuages, lands, rents, tenements and hereditaments in fee ſimple, in ———, and ——, or either of them, to be conveyed to the ſame perſons and uſes, and ſubject to the ſame payments, charges and powers, to which his ſaid manors, meſſuages, lands, rents, tenements, hereditaments and real eſtates, were in and by his ſaid will given, limited and deviſed, or as near thereto as the death of parties, or other events would admit of, and of and after ſeveral annuities and pecuniary legacies thereby given, and bequeathed the ſaid teſtator, thereby appointed the ſaid *R. B.* and *P. M.* executors of his ſaid will upon the truſt aforeſaid, and whereas, after the death of the ſaid *H. C.* the ſaid *R. B.* and *P. M.* his ſaid executors proved the ſaid will in the prerogative court of ——, and took upon themſelves the execution of the truſts thereof. And whereas, by a decree or decretal order of the high Court of Chancery made and pro-

MORTGAGE.

Of proof of ſaid will.

Of a decree in Chancery.

MORTGAGE. nounced on the — day of ——, in a cauſe wherein the ſaid *A. T. G. D. G. C.* infants by their next friend were plaintiffs, *F. E. S. H.* only ſon of the ſaid *F. E.* an infant by his father and guardian *H. I.* (an infant by his guardian) the then heir at law of the ſaid Right Hon. —— of ——, in the kingdom of ——, deceaſed, the ſaid *R. B.* and *P. M.* executors of the ſaid *H. G.* and *J. W.* an infant by his mother and guardian; *Y. I. J. G. U. H. J. F. P. F. M. C.* his wife *P. C.* and *S.* his wife, *M. B.* and *J.* his wife were defendants, after taking notice of the will of the ſaid *H. G.* deceaſed, dated the — day of ——, it was declared that the will of the ſaid *H. G.* was well proved, and that the ſame ought to be eſtabliſhed, and the truſts thereof performed, and it was amongſt other things ordered and decreed, that it ſhould be referred to Mr. ——, one of the maſters of the ſaid court, to take an account of the ſaid teſtator's perſonal eſtate, which had come to the hands of his ſaid executors, and alſo, of the ſaid teſtator's debts, funeral expences, legacies, and annuities; and it was further ordered, that ſuch perſonal eſtate ſhould be applied in the payment of the ſaid teſtator's debts, funeral expences and legacies, in a courſe of adminiſtration, and that the clear ſurplus of ſuch perſonal eſtate ſhould be laid out with the approbation of the ſaid maſter, in the purchaſe of lands, tenements, or hereditaments in ——, or ——, and that ſuch lands, tenements, or hereditaments when purchaſed, ſhould be (with the like approbation) ſettled to ſuch uſes and upon ſuch truſts, and with ſuch limitations, and for ſuch intents and purpoſes, and for the benefit of ſuch

perſons as were directed by the ſaid teſtator's will, and that until ſuch purchaſe could be found, the ſaid ſurplus of the ſaid teſtator's perſonal eſtate ſhould be placed out in government or real ſecurities, and that the intereſt and dividends thereof ſhould be paid to ſuch perſon or perſons as would have been intitled to the rents and profits of the lands and hereditaments when purchaſed, and that ſuch leaſehold eſtates as were part of the ſaid teſtators perſonal eſtate, ſhould (with the like approbation) be ſold, and the money ariſing thereby applied in like manner as was directed reſpecting the uſe of the ſaid teſtator's perſonal eſtate, and that the arrears and growing payments of the annuities given by the ſaid teſtator's will ſhould be kept down and continued to be paid. AND whereas by indenture quadripartite, bearing date on or about the — day of ——, in the year of our Lord ——, and made or mentioned to be made between the ſaid *G.D.* party hereto of the firſt part, lady *K.M.* ſince deceaſed, of the ſecond part, and *H. J.* of the third part and *D. I.* of the fourth part in conſideration of a marriage then intended, and which ſoon after took effect, and was ſolemnized between the ſaid *G. D.* and lady *K. M.* ſince deceaſed, and of the marriage portion of the ſaid lady *K. M.* therein mentioned, he the ſaid *H. G.* (did among other things) in purſuance and exerciſe of the power in him for that purpoſe veſted, by the ſaid recited will, charge all the hereditaments and premiſes deviſed by the ſaid will of the ſaid *K. G.* and alſo, all the hereditaments which after his deceaſe had been purchaſed with any part of his reſiduary perſonal eſtate, and every part and parcel thereof,

MORTGAGE.

Recital of marriage ſettlement

MORTGAGE. with the ſum of £.——, for his younger child or children, in caſe of his having an eldeſt or only ſon who ſhould attain the age of 21 years, and with any ſum not exceeding ——, for his daughter or daughters in caſe of his not leaving any ſon who ſhould attain that age, (which latter proviſion has failed by the death of the ſaid lady, *K.* without having any daughter) and the ſaid *G. D.* did direct and appoint the ſaid ſum of ——, to be equally divided among his younger children, ſhare and ſhare alike, at their reſpective age of 21 years of a ſon or ſons, and of a daughter or daughters at their reſpective ages of 21 years, or day of marriage, and if but one ſuch younger child, or if more than one, and all except one ſhould die before his or her age of 21 years or day of marriage, then the ſum of ——, to be paid to ſuch ſurviving child at his or her age of 21 years or day of marriage, and that in caſe any ſuch younger child or children ſhould attain the age of 21 years, or marry during the life of the ſaid *G. D.* then his or her right in the ſaid ——, ſhould be conſidered as veſted, but that payment ſhould be poſtponed after his deceaſe, and whereas the ſaid lady *K. M.* departed this life the — day of ——, leaving the ſaid *G. D.* and *S. R.* parties hereto, her ſurvivors and iſſue by the ſaid *G. D.* only one ſon namely *P.* an infant, now the age of — years or thereabouts, and no other child, and the ſaid *S. N.* will have a veſted intereſt in the ſaid ſum of ——, by virtue of the ſaid recited will and ſettlement on his attaining the age of 21 years. AND whereas by a decree or decretal order of the high Court of Chancery, made

On the death of the ſaid lady K M. Leaving children.

And that—— will have a veſted intereſt.

and pronounced on the — day of November, ——, before the Right Honourable the Maſter of the Rolls, (and ſince duly enrolled) in a cauſe by original ſupplemental bill, wherein the ſaid *G. D.* was plaintiff, and *T. W.* eſquire, *M. H.* eſquire, and *S. R.* were defendants, it was amongſt other things ordered and decreed, that the decree and proceedings in the ſaid former cauſe, bearing date the — day of ——, ſhould be received, and carried into execution, and that Mr. *H.* one of the maſters of the ſaid court to whom the ſaid cauſe ſtood transferred, ſhould inquire and ſtate to the court, whether any, and what part of the perſonal eſtate of the teſtator, *G. H.* had been laid out in the purchaſe of lands purſuant to the directions of the decree in the ſaid former cauſe, not being ſettled according to the direction of the ſaid decree, and in caſe that the ſaid maſters ſhould find that any ſuch lands had been purchaſed, then that the ſame ſhould be conveyed and ſettled in the ſame manner directed by the ſaid former decree. AND WHEREAS the ſaid maſter *H.* (to whom the ſaid cauſes were transferred) made his report in the ſaid laſt mentioned ſupplemental cauſe, bearing date the —— day of ——, and thereby certified amongſt other things, that he found that the ſaid *B. S.* and *P. M.* eſquires, both deceaſed, had with the approbation of the then late maſter to whom the former cauſe ſtood referred, laid out the ſum of —— ſterling money, part of the perſonal eſtate of the ſaid teſtator *G. H.* in the purchaſe of certain freehold manors, lordſhips,

MORTGAGE.

A decretal order in Chancery.

Maſter's report.

MORTGAGE. towns, meſſuages, lands, tenements, and hereditaments, ſituate, lying and being in ———, then the eſtate of *T. J.* as appeared by the report of the ſaid late maſter made in the former cauſe on the — day of ——, and that the ſaid manors, lordſhips, towns, meſſuages, lands, tenements, and hereditaments by indentures of leaſe and releaſe, dated reſpectively the — and — days of ——, and which ſaid indentures of leaſe and releaſe were approved by the ſaid late maſter were duly conveyed to and to the uſe of the ſaid *B. S.* and *M. P.* their heirs and aſſigns, upon truſt to convey, ſettle, and aſſure the ſame to ſuch and the ſame uſes upon ſuch and the ſame truſts, and to and for ſuch and the ſame intents and purpoſes, and by, with, under, and ſubject to ſuch and the ſame powers, proviſos, payments, charges, conditions, reſtrictions, and limitations, as by the laſt will and teſtament of the ſaid *G. H.* and the decree in the ſaid former cauſe, were directed to be limited of and concerning the lands to be purchaſed with the reſidue of his perſonal eſtate, ſo far as the deaths of parties and other contingences would permit, and to and for no other uſe, truſt, intent, or purpoſe whatſoever, but that no ſuch conveyance and ſettlement was made by the ſaid *B. R.* and *M. P.* or the ſurvivor of them, or the heirs of ſuch ſurvivor, and that the ſaid maſter *H.* had therefore purſuant to the ſaid decree made in this ſaid ſecond cauſe, ſettled and approved of a proper conveyance and ſettlement of the ſaid manors, lordſhips, towns, meſſuages, lands, tenements, and hereditaments from the ſaid defendant *W. J.* the only ſon

and heir at law of the ſaid *M. P.* deceaſed, who ſurvived the ſaid *B. R.* his co-truſtees, to ſuch uſes, and upon ſuch truſts, and with ſuch limitations, and for ſuch intents and purpoſes, and for the benefit of ſuch perſons as were directed by the ſaid teſtator's will. AND WHEREAS the ſaid maſter *H.* afterwards made his general report in both the ſaid cauſes, dated the — day of — and did thereby amongſt other things, certify that as to the account directed by the decree in original cauſe to be taken of the ſaid teſtator's debts, no perſon had proved or claimed any debts before the ſaid maſter *M.* or his ſucceſſor maſter *C.* or before him the ſaid maſter *H.* as due from the ſaid teſtator, but that it was admitted before him that an annuity of £——, granted by the ſaid teſtator *G. H.* to *H. L.* ſpinſter, ſtill remained ſubſiſting, but that all arrears thereof had been paid to the —— day of ——, by the ſaid *D. G.* and that the funeral expences, and alſo the ſeveral legacies which were given by his will, were paid by the ſaid *B. R.* and *M. P.* and as to the annuities given by the ſaid teſtator's will, no claim for any arrears of any ſuch annuities had been brought in before either of the ſaid late maſters, or before him the ſaid maſter *H.* but he found from the affidavit of the ſaid *D. G.* who upon the death of his father *T. A.* ſucceeded to the eſtates of the ſaid *G. H.* made in the ſaid ſupplemental cauſe, that ſeveral of the ſaid annuitants to wit, *C. P.* and *S.* his wife, and *B. M.* were all dead, before he (the ſaid marquis of ——,) became poſſeſſed of the ſaid eſtates, and that all the annuities which

MORTGAGE.

Maſter's general report.

MORTGAGE. became due to the ſeveral perſons in their reſpective lives were fully paid and ſatisfied by the ſaid *T. A.* deceaſed, and that *J. Y. F. U. G. J. M. P. F. J.* and other perſons named as annuitants in the ſaid will of the ſaid *G. H.* had reſpectively died ſince the ſaid *D. G.* became poſſeſſed of the ſame eſtates, and that all the annuities which became due to them reſpectively, in their reſpective lives, had been fully paid and ſatisfied by him the ſaid *D. G.* and that the annuity that became due to the ſame *M. P.* deceaſed, in his life time, had alſo been fully paid and ſatisfied, and that the annuity of £——, in and by the ſaid will of the ſaid teſtator *G. H.* given to *F. G.* and *F. J.* and the annuity of £—, given thereby to *S. P.* were the only annuities in the ſaid will mentioned, which were then exiſting, and that the ſame had been fully paid up to ———, and the ſaid maſter certified, that by a ſubſequent voucher it appeared that the ſaid annuity to the ſaid —— had been ſince paid by the ſaid *D. G.* to the —— day of ——, and that the ſeveral conveyances or ſettlements of ſeveral eſtates in the kingdom of ——, and ſo approved of by him maſter *H.* as mentioned in his former report of the day of ——, appeared to him by the affidavit of *G. I.* and *J. L.* gentlemen, made in the ſaid ſupplemental cauſe, to have been ſince duly executed by the ſaid *W. T.* and that the ſum of —— was then remaining due to the ſaid *D. G.* in reſpect of money paid by him in diſcharging incumbrances upon the ſaid teſtator's eſtates, and which ſaid general report, by an order made of the ſaid court by the right hon. the Maſter of the

Rolls, in the ſame cauſes on the —— day of —— next following, was abſolutely confirmed. AND whereas by indentures of leaſe and releaſe, being the conveyance and ſettlement mentioned in the two ſeveral reports in the ſaid cauſes hereinbefore in part recited, to have been approved by the ſaid maſter *H.* the leaſe bearing date the — day of — and the releaſe the — day of — in the year ——, the ſaid indenture of releaſe being of four parts, and made, or mentioned to be made between the ſaid *W. T.* of the firſt part, *T. W. G.* and *D. G.* eſq. of the ſecond part, the ſaid *D. G.* of the third part, and *R. S.* of the fourth part. [After reciting in ſubſtance as hereinbefore is recited.] He the ſaid *W. T.* in purſuance of the ſaid will and decree, and of the ſaid indentures of leaſe and releaſe of the — and — days of ——, (approved by the ſaid maſter *M.*) and performance of the truſts devolved on the ſaid *W. T.* and in conſideration of 10s. at the requeſt and by the conſent of the ſaid *D. G.* and *D. R. S.* did bargain, ſell, alien, releaſe, and confirm unto the ſaid, *T. W. G.* and *D. G.* their heirs and aſſigns, the ſaid manors, lordſhips, towns, meſſuages, lands, tenements, and hereditaments, with their and every of their appurtenances mentioned and particularly deſcribed in the ſaid indentures of leaſe and releaſe, of the — and — days of ——. TO HOLD unto the ſaid *T. W. G.* and *D. G.* and their heirs, ſubject to and chargeable with the payment of all ſuch annuities, proviſos, pecuniary legacies, ſum and ſums of money, then exiſting and unſatisfied, to the payment of which the eſtate of the ſaid *G. H.* was made ſub- MORTGAGE.

MORTGAGE.

ject by his ſaid will to the uſe of the ſaid *D. G.* and his aſſigns for — years, if he ſhould ſo long live, without impeachment of waſte, and after his deceaſe to the ſaid *T. W. G.* and *D. G.* and their heirs during the life of the ſaid *D. G.* upon truſt, to preſerve contingent remainders, and from and after the deceaſe of the ſaid *D. G.* to the uſe and behoof of the ſaid *R. S.* and of the heirs male of his body lawfully iſſuing, and to the uſe of ſuch other perſon and perſons, and for ſuch eſtates, ends, intents, and purpoſes, and with, under, and ſubject to ſuch powers, privileges, conditions, and reſtrictions, as the ſaid *G. H.* had by his will deviſed his real eſtates, to or upon ſuch or ſo many of them as were then ſubſiſting and capable of taking effect. AND whereas by indentures of leaſe and releaſe, bearing date reſpectively on or about the — and — days of —— in the ſaid year ——, enrolled in his Majeſty's Court of Common Pleas, in ———, the releaſe being of five parts, and made or expreſſed to be made between the ſaid *T. W. G.* and *D. G.* of the firſt part, the ſaid *D. G.* of the ſecond part, the ſaid *R. S.* of the third part, *I. T. P.* of the fourth part, and *G. P.* eſq. of the fifth part, and by a common recovery therein agreed to be ſuffered, and which was ſuffered accordingly, in ——— laſt paſt, all and ſingular the manors, lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, hereinafter more particularly mentioned and deſcribed, and intended to be hereby granted, conveyed and aſſured, amongſt other lands and hereditaments in the ſaid indenture mentioned were

Indentures of leaſe and releaſe enrolled in Ireland,

and recovery ſuffered.

limited to the uſe of the ſaid *D. G.* for life, without impeachment of waſte, with remainder, after the deceaſe of the ſaid *D. G.* to the uſe and behoof of ſuch perſon and perſons and for ſuch eſtate and intereſt, and ſubject to ſuch annuities and charges, either annual or in groſs, and ſuch powers, conditions, and limitations, over and in ſuch manner and form, either abſolutely or conditionally, and with or without power of revocation and new limitations of uſe or uſes, as they the ſaid *D. G.* and *R. S.* during their joint lives, ſhould by any deed or deeds, writing or writings, to be by them both ſigned and ſealed, and delivered in the preſence of two or more credible witneſſes, from time to time jointly direct, limit, appoint or declare, and in default of ſuch joint direction, limitation, or appointment, and alſo ſuch part or parts of the ſaid hereditaments and premiſes, and ſuch eſtate and intereſt therein as ſhould not paſs by ſuch joint direction, limitation, or appointment, ſhould remain ſubject to ſuch uſes as therein mentioned, with remainder to the uſe of the ſaid *R. S.* and the heirs male of his body, with remainder to the uſe of the ſaid *W. P.* the younger ſon of the ſaid *D. G.* and the heirs male of his body, with remainder to the uſe of the ſaid *D. G.* and *R. S.* their heirs and aſſigns for ever. And whereas by indentures of leaſe and releaſe, the leaſe bearing date the day before the date of the releaſe, and the releaſe bearing date the ——— day of ———, which was in the year ——, and expreſſed to be made between the ſaid *D. G.* and *R. S.* of the firſt part, the ſaid *T. L.* and *S. G.* eſquires, of the ſecond

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Indentures of leaſe and releaſe, and mortgage.

MORTGAGE. part, the ſaid *G. W.* and *W. F.* eſquires, of the third part, and the ſaid *P. R.* and *J. J.* eſquires, of the fourth part. [after reciting the laſt mentioned indentures of leaſe and releaſe.] And that the ſaid *D. G.* and *R. S.* had contracted and agreed with the ſaid *C. W.* and *W. F.* for the loan of the ſum of ——, of lawful money of *Great Britain*, to be ſecured in manner thereinafter mentioned, they the ſaid *D. G.* and *R. S.* for the conſideration therein mentioned, by and with the privity, conſent, and approbation of the ſaid *C. W.* and *W. F.* teſtified as therein mentioned, did jointly direct, limit, appoint, and declare, that the laſt mentioned grant, releaſe and recovery, and all other aſſurances, ſhould as to the manors, lordſhips, towns, meſſuages, lands, tenements, and hereditaments mentioned and intended to be thereby granted and releaſed, with the appurtenances, be and enure to the uſes, upon the truſts, and ſubject to the proviſo and agreement thereinafter expreſſed, or contained, of and concerning the ſame; and for the conſideration therein mentioned, they the ſaid *D. G.* and *R. S.* did thereby grant, bargain, ſell, releaſe, and confirm unto the ſaid *C. G.* and *J. F.* Parcels. and to their heirs and aſſigns, all &c. To hold unto the ſaid *P. R.* and *J. J.* their heirs and aſſigns, to the uſe of the ſaid *C. G.* and *W. F.* their executors, adminiſtrators, and aſſigns, for and during, and unto the full end and term of —— years, to be computed from the day of the date of the ſame indenture of releaſe, laſt mentioned, ſubject to a proviſo or condition therein contained for making the ſame void on payment of the ſaid ſum of ——,

being the ſaid ſum of, and intereſt for the ſame, at ſuch place, in ſuch manner, and at ſuch times as are therein for that purpoſe mentioned, but which are not yet come, and from and immediately after the end and expiration or ſooner determination of the ſaid term, and in the mean time ſubject thereto, to the uſe of the ſaid *P. R.* and *J. J.* their heirs and aſſigns, for ever upon truſt, among other things, in caſe the whole of the ſaid ſum of ——, ſhould be paid on the day therein mentioned, but which is not yet come, that they the ſaid *P. R.* and *J. J.* and the ſurvivor of them, and his heirs, ſhould at the coſts and charges of the ſaid *D. G.* and *R. S.* or of their reſpective heirs, executors, or adminiſtrators, convey and aſſure the ſaid ſeveral hereditaments and premiſes, thereby granted and releaſed, limited, and aſſured unto and to the uſe of the ſaid *D. G.* and *R. S.* their heirs and aſſigns, or as they ſhould direct or appoint, as in and by the ſaid will, decrees, reports, and ſeveral indentures, relation being thereunto reſpectively had may more fully and at large appear. And whereas there is now due and owing unto the ſaid *C. W.* and *W. F.* on the ſaid recited ſecurity, the ſum of —— principal money only, all intereſts for the ſame having been paid until the day of the date hereof, and the ſaid *G. W.* at the requeſt of the ſaid *D. G.* and *R. S.* had agreed to advance and lend to them the ſum of ——, on the ſecurity of the ſaid premiſes, in the ſaid laſt mentioned indentures, contained and hereinbefore deſcribed, together with that of other eſtates and hereditaments hereinafter mentioned and particularly deſcribed;

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Recital that — is due on the ſaid mortgage.

Contract for further mortgage.

MORTGAGE. and the ſaid *C. W.* and *W. F.* have agreed to receive the ſum of ——, part thereof, in ſatisfaction of the ſaid principal ſum of ——, ſo due and owing to them as aforeſaid. Now THIS INDENTURE witneſſeth, that for and in conſideration of the ſaid ſum of ——— of lawful money of *Great Britain*, and according to the value of money in *Great Britain*, to them the ſaid *C. W.* and *W. F.* in hand well and truly paid by the ſaid *G. W.* at or immediately before the enſealing and delivery of theſe preſents, at the requeſt, and by the direction and appointment of the ſaid *D. G.* and *R. S.* teſtified by their reſpectively being parties hereunto, and ſigning and ſealing theſe preſents, in full diſcharge of all principal money and intereſt, due and owing from the ſaid *D. G.* and *R. S.* to the ſaid *C. W.* and *W. F.* or either of them, on the ſaid recited ſecurities or otherwiſe, the receipt and payment of which ſaid ſum of —— the ſaid *C. W.* and *W. F.* do, and each of them doth hereby acknowledge, and thereof, and of and from the ſame, and every part thereof, do, and each of them doth acquit, releaſe, and diſcharge the ſaid *G. W.* his heirs, executors, adminiſtrators, and aſſigns, and every of them for ever by theſe preſents, they the ſaid *C. W.* and *W. F.* at the requeſt, and by and with the like conſent, direction, and appointment of the ſaid *D. G.* and *R. S.* teſtified ſeverally as aforeſaid, have bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents, do, and each of them doth bargain, ſell, aſſign, transfer and ſet over unto the ſaid *G. W.* his executors, adminiſtrators and aſſigns, as well the ſaid indenture of appointment, and releaſe, as all and

ſingular the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes hereinbefore mentioned, to be by the ſaid laſt mentioned indenture, limited in uſe to the ſaid *C. W.* and *W. F.* their executors, adminiſtrators, and aſſigns, or mentioned or intended ſo to be, with their and every of their appurtenances, and every part and parcel thereof, and all the eſtate, right, title, intereſt, truſt, term of years yet to come and unexpired, property, benefit, claim, and demand whatſoever, both at law and in equity, of them the ſaid *C. W.* and *W. T.* of, in, and to the ſame, or any part thereof, To have and to hold as well the ſaid recited indenture of appointment and releaſe, as all and ſingular the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes hereinbefore mentioned, or referred to, and intended to be hereby aſſigned, with their and every of their rights, members, and appurtenances unto the ſaid *G. W.* his executors, adminiſtrators and aſſigns, for and during all the reſt, reſidue, and remainder of the ſaid term of ——— years, in and by the ſaid laſt mentioned indenture of appointment and releaſe, limited in uſe, and therein yet to come and unexpired, And the ſaid *C. W.* for himſelf, his heirs, executors, and adminiſtrators, and the ſaid *W. F.* for himſelf, his heirs, executors, and adminiſtrators, do, and each of them doth, ſeverally and reſpectively, and not jointly, or the one for the other of them, or for the acts, deeds, heirs, executors, or adminiſtrators of the other of them, but each of them for himſelf, and his own acts, deeds, heirs, executors, admini-

Conſideration. Aſſignment of term.

MORTGAGE.

ſtrators, only covenant and declare to and with the ſaid *G. W.* his executors, adminiſtrators and aſſigns, that they ſaid *C. W.* and *W. F.* or either of them, have not at any time heretofore, made, done or committed, or executed, or wittingly or willingly permitted, or ſuffered any act, deed, matter or thing whatſoever, whereby or wherewith, or by reaſon whereof the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes hereinbefore mentioned, to be hereby bargained, ſold, aſſigned, transferred, and ſet over, or any of them, or any part thereof, is, are, ſhall, or may be impeached, charged, or incumbered in title, charge, eſtate, or otherwiſe howſoever. AND

Ratification by the mortgager.

THIS INDENTURE FURTHER WITNESSETH, that *R. S.* as well for the conſideration aforeſaid, as in conſideration of the ſum of —— of lawful money of *Great Britain*, and according to the value of money in *Great Britain*, to them the ſaid *D. G.* and *R. S.* in hand, at or immediately before the ſealing and delivery of theſe preſents, well and truly paid by the ſaid *G. W.* and which with the ſum of —— paid by the ſaid *G. W.* to the ſaid *C. W.* and *H. F.* as aforeſaid, make together the ſum of —— agreed to be advanced, and paid by the ſaid *G. W.* to the ſaid *D. G.* and *R. S.* as hereinbefore mentioned, the payment and receipt of which ſaid £—— in manner aforeſaid; and the ſaid *D. G.* and *W. F.* by this their deed in writing, by them both ſigned, ſealed, and delivered in the preſence of two credible perſons whoſe names are intended to be hereupon indorſed, as witneſſes, they the ſaid *D. G.* and *R. S.* do hereby acknow-

ledge, and thereof, and of and from the ſame, and every part thereof, do, and each of them doth hereby acquit, releaſe, and diſcharge the ſaid *G. W.* his heirs, executors, and adminiſtrators, and by theſe preſents have, and each of them hath granted, ratified, and confirmed, and by theſe preſents, do and each of them doth grant, ratify, and confirm unto the ſaid *G. W.* his executors, adminiſtrators, and aſſigns; all and ſingular the ſaid manors, or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and all and ſingular, other the premiſes hereinbefore deſcribed or referred to, and mentioned or intended to be hereby aſſigned, and in and by the ſaid laſt in part recited indenture, limited in uſe, or mentioned and intended ſo to be, with their and every of their appurtenances, and every part or parcel thereof, and the eſtate, right, title, intereſt, uſe, poſſeſſion, reverſion and reverſions, equity, and power of redemption, right, benefit, property, claim, and demand whatſoever, as well in equity as at law of them the ſaid *D. G.* and *W. F.* or either of them, of, in, to, and out of the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, and hereditaments, and premiſes, every or any of them. To have and to hold the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, and hereditaments hereinbefore mentioned and deſcribed or referred to, and intended to be hereby aſſigned, granted, ratified, and confirmed, with their and every of their rights, members and appurtenances unto the ſaid *G. W.* his heirs, executors, adminiſtrators and aſſigns, for and during all the reſt, reſidue and remainder of the ſaid

MORTGAGE.

Habendum.

MORTGAGE.

term of—— by the ſaid laſt mentioned indenture, limited in uſe, and therein yet to come and unexpired, freed, and diſcharged, from all benefit and equity of redemption, but ſubject nevertheleſs to ſuch proviſo, or agreement for redemption of the ſame premiſes as hereinafter is contained. AND this indenture further witneſſeth, that for the conſideration aforeſaid, and alſo for and in conſideration of the further ſum of 10s. of like lawful money of *Great Britain*, to each of them the ſaid *D. G.* and *W. S.* in hand well and truly paid by the ſaid *A. B.* and *C. D.* at or before the ſealing and delivery of theſe preſents, the receipt whereof is thereby acknowledged, they the ſaid *D. G.* and *W. S.* by virtue of, and in purſuance and exerciſe of the ſaid power or authority, enabling them thereto, in ſuch manner, as in the ſaid above in part recited indenture, bearing date the —and—days of—, is mentioned, and by virtue of all and every other powers and authorities, power and authority given to or veſted in them or in any ways enabling them thereunto, and at the requeſt and with the conſent and approbation of the ſaid *G. W.* teſtified by his being party to and ſealing and delivering theſe preſents, have limited and appointed, and by this preſent deed or writing, ſo ſealed and delivered by them the ſaid *D. G.* and *R. S.* aforeſaid, and intended to be atteſted as aforeſaid, limit and appoint to the uſe of the ſaid *A. B.* and *C. D.* and their heirs and aſſigns for ever, all and ſingular the aforeſaid manors, lordſhips, towns, meſſuages, lands, tenements, hereditaments, and all and ſingular the other the premiſes hereinbefore deſcribed, men-

Appointment of fee in other premiſes.

tioned and referred to, with their and every of their rights, members, and appurtenances, and they the ſaid *D. G.* and *R. S.* do hereby direct, limit, appoint, and declare, that the ſaid in part recited indentures of the —— and —— days of ——, and the recovery ſuffered in purſuance thereof, ſo far as the ſame regard or relate to the ſame hereditaments, and premiſes, or any of them, ſhall be and enure, and that the ſaid manors, lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes with their and every of their rights, members and appurtenances, ſubject nevertheleſs to the ſaid term of —— years hereinbefore mentioned and intended to be hereby aſſigned, ſhall be and remain to the uſe of the ſaid *A. B.* and *C. D.* and their heirs and aſſigns for ever, freed and diſcharged from the uſes, truſts, proviſos, and agreements in the laſt above in part recited indenture, of the —— days of —— mentioned, but to the uſes upon the truſts, and ſubject to the proviſos and agreements hereinafter witneſſed and contained of and concerning the ſame. AND THIS INDENTURE LIKEWISE WITNESSETH, that for the conſideration aforeſaid, and for and in conſideration of the further ſum of 10s. of like lawful money, to each of them the ſaid *D. G. R. S. P. R.* and *I. I.* in hand paid by the ſaid *A. B.* and *C. D.* at or before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, they the ſaid *P. R.* and *J. G.* with the privity and conſent of the ſaid *C. W.* and *W. T.* at the requeſt and by the direction and appointment of the ſaid *D. G.* and *R. S.*

MORTGAGE.

Aſſignment of fee by truſtees of former mortgage.

MORTGAGE. (teſtified ſeverally as aforeſaid) have and each of them hath granted, bargained, ſold, aliened, releaſed, and confirmed, and by theſe preſents do, and each of them doth grant, bargain, ſell, alien, releaſe, and confirm, and the ſaid *D. G.* and *R. S.* have, and each of them hath granted, bargained, ſold, aliened, releaſed, ratified, and confirmed, and by theſe preſents do, and each of them doth grant, bargain, ſell, alien, releaſe, ratify, and confirm, unto the ſaid *A. B.* and *C. D.* in their actual poſſeſſion now being, by virtue of a bargain and ſale to them thereof made by the ſaid *P. R.* and *I. T.* for 5s. apiece conſideration, by indenture bearing date the day next before the day of the date of theſe preſents, for the term of one whole year, commencing from the day next before the day of the date of the ſaid indenture of bargain and ſale, and by force of the ſtatute made for transferring uſes into poſſeſſion, and their heirs and aſſigns, all and ſingular other the premiſes in and by the ſaid laſt mentioned indenture of the — day of ——, appointed, granted, and releaſed, or mentioned, and intended ſo to be, with their and every of their rights, members, and appurtenances, and the reverſion and reverſions, remainder and remainders, yearly, and other rents, iſſues, and profits, thereof, and of every part thereof, and all the eſtate, right, title, intereſt, truſt, property, claim, and demand whatſoever, both at law and in equity, of them the ſaid *P. R.* and *J. J.* or either of them, of, into, or out of the ſaid manors, or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, every or any of them,

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TO HAVE AND TO HOLD the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and all and ſingular other the premiſes hereinbefore mentioned or referred to, and intended to be hereby releaſed, with their and every of their rights, members and appurtenances, unto the ſaid *A. B.* and *C. D.* and their heirs and aſſigns, for ever freed and diſcharged from the uſes, truſts, proviſos, and agreements, in the laſt above in part recited indenture of the — day of ——, mentioned, but to the uſes, upon the truſts, and ſubject to the proviſo and agreement hereinafter expreſſed and contained, of and concerning the ſame; and the ſaid *P. R.* for himſelf, his heirs, executors, and adminiſtrators, and the ſaid *J. J.* for himſelf, his heirs, executors, and adminiſtrators, do, and each of them doth ſeverally and reſpectively, and not jointly, or the one for the other of them, or for the acts, deeds, heirs, executors, and adminiſtrators, of the other of them, but each of them for himſelf, and his own acts and deeds, heirs, executors, and adminiſtrators only, covenant and declare, to and with the ſaid *A. B.* and *C. D.* that they the ſaid *P. R.* and *J. J.* or either of them, have not at any time heretofore made, done, committed, or executed, or wittingly or willingly permitted or ſuffered any act, deed, matter or thing whatſoever, whereby or by reaſon whereof, the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes hereinbefore appointed, granted and releaſed, or expreſſed and intended ſo to be, or any of them, or any part thereof, is, are, ſhall, or may be, impeached, charged, or incum-

Covenant againſt incumbrances.

MORTGAGE. bered in title, charge, eſtate, or otherwiſe howſoever. AND THIS INDENTURE FURTHER WITNESSETH, that for the conſideration aforeſaid, and for the better and more effectual ſecuring to the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, the payment of the ſaid ſum of ——, with intereſt for the ſame, after the rate and at the times hereinafter ſpecified for payment thereof, and alſo for and in conſideration of the further ſum of 10s. of like lawful money to each of them the ſaid *D. G.* and *R. S.* in hand paid by the ſaid *A. B.* and *C. D.* at or immediately before the ſealing and delivering of theſe preſents the receipt whereof is hereby acknowledged, they the ſaid *P. R.* and *J. J.* by virtue and in purſuance and exerciſe of the ſaid power and authority, enabling them thereto in ſuch a manner as in the ſaid above inpart recited indenture, bearing date the — and — days of — is mentioned, and by virtue of all and every other powers and authorities, power and authority given to or inveſted in them, or in any wiſe enabling them thereunto, and at the requeſt and with the conſent and approbation of the ſaid *G. W.* teſtified in manner aforeſaid, have limited and appointed, and by this preſent deed or writing, ſo ſigned, ſealed, and delivered, by them the ſaid *D. G.* and *R. S.* as aforeſaid, and intended to be teſtified as aforeſaid, do limit and appoint to the uſe of the ſaid *A. B.* and *C. D.* and their heirs and aſſigns for ever, all and ſingular the manors, lordſhips, towns, meſſuages, lands, tenements, and hereditaments hereinafter particularly mentioned and deſcribed, and intended to be hereby granted, conveyed and releaſed, with

Appointment of other eſtates to like uſes.

their and every of their rights, members, and appurtenances, and do hereby direct and appoint, that the ſaid in part recited indentures of the —— and —— days of ———, and the recovery ſuffered in purſuance thereof, and ſo far as the ſame regard or relate to the hereditaments laſt mentioned and deſcribed, or any of them, ſhall be and inure, and that the ſame manors or lordſhips, towns, meſſuages, lands, tenements, and hereditaments, hereinafter particularly mentioned and deſcribed, with their and every of their rights, members, and appurtenances, ſhall be and remain to the uſe of the ſaid *A. B.* and *C. D.* and their heirs and aſſigns, for ever, to the uſes, upon the truſts, and ſubject to the proviſos and agreements hereinafter expreſſed and contained of and concerning the ſame. And this indenture likewiſe witneſſeth, that for further effectuating the ſame contract and agreement, and for the conſideration hereinbefore expreſſed, and alſo in conſideration of the ſum of 5s. of lawful money of *Great Britain*, by the ſaid *A. B.* and *C. D.* to the ſaid *D. G.* and *R. S.* in hand, at or immediately before the ſealing and delivery of theſe preſents, well and truly paid, the receipt whereof is hereby acknowledged, they the ſaid *D. G.* and *R. S.* in purſuance and further execution of the ſaid power and authority, enabling them in this behalf, in ſuch manner as in the ſaid in part recited indenture, dated the — day of —, is mentioned, and by force and virtue of all and every other power and powers, authority and authorities, in them, or either of them veſted, or to them or either of them

MORTGAGE.

Further witneſs. Grant, &c. to truſts for purpoſes after mentioned.

MORTGAGE. given, at the requeſt, and with the conſent and approbation of the ſaid *G. W.* teſtified as aforeſaid, have and each of them hath granted, bargained, ſold, aliened, releaſed, conveyed, and confirmed, and by this preſent deed or writing ſo ſealed and delivered by them the ſaid *D. G.* and *R. S.* and intended to be atteſted as aforeſaid, do grant, bargain, ſell, alien, releaſe, convey, and confirm, unto the ſaid *A. B.* and *C. D.* in their actual poſſeſſion now being, by virtue of a bargain and ſale thereof to them made by the ſaid *D. G.* and *R. S.* for 5s. conſideration, by indenture bearing date the day next before the day of the date of theſe preſents, for the term of one whole year, commencing from the day next before the day of the date of the ſaid indenture of bargain and ſale, and by force of the ſtatute made for transferring uſes into poſſeſſion, and to their heirs and aſſigns, all &c. with their and every of their appurtenances, and all and ſingular the houſes, out-houſes, edifices, buildings, barns, ſtables, dove-houſes, yards, gardens, orchards, woods, underwoods, trees, groves coppices, ways, paths, paſſages, waters, water-courſes, moors, marſhes, bogs, commons, common of paſture, and other rights of common, mines, quarries, courts-leet, courts-baron, and other court perquiſites, and profits of courts, unto ſervices, waifs, eſtrays, deodands, goods of felons, and outlaws, and fugitives, and felons of themſelves, treaſure, trover, and all other rights, royalties, franchiſes, liberties, privileges, juriſdictions, profits, emoluments, eaſements, commodities, and appurtenances, whatſoever, to the

Parcels and general lands.

MORTGAGE

ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, hereinbefore laſt mentioned and deſcribed, or any of them belonging or appertaining, or to or with the ſame, every, or any of them, uſually held, occupied, poſſeſſed, or enjoyed, or accepted, or reputed, deemed, taken, known, demiſed, uſed, or letten, as part, parcel, or member of them, or any of them, and the reverſion and reverſions, remainder and remainders, yearly, and other rents, iſſues, and profits, of all and ſingular the ſaid premiſes, and all the eſtate, right, title, intereſt, truſt, property, claim, and demand, whatſoever, both at law and in equity, of them the ſaid *D. G.* and *R. S.* and each of them, of, into, or out of the ſaid laſt mentioned manors, or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, every or any of them, which ſaid manors, &c. TO HAVE AND TO HOLD the ſame, or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and all and ſingular other the premiſes laſt herein before mentioned and deſcribed, with their and every of their rights, members, and appurtenances, unto the ſaid *A. B.* and *C. D.* their heirs and aſſigns, to the uſes, upon the truſts, and ſubject to the proviſos and agreements hereinafter expreſſed and contained, of and concerning the ſame. And it is hereby agreed and declared, that as well the ſaid direction and appointment, grant and releaſe, laſt hereinbefore made, as the ſaid direction and appointment, grant and releaſe, firſt hereinbefore made, ſhall reſpectively be and enure to the uſes, upon the

MORTGAGE. truſts, and ſubject to the proviſo and agreement hereinafter expreſſed and contained, (that is to ſay,) to the uſe of the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, for, and during, and unto the full end and term of — years, to be computed from the day of the date of theſe preſents, ſubject to the proviſo and agreement hereinafter expreſſed and contained, of and concerning the ſaid term, and from and immediately after the end, expiration, or ſooner determination of the ſaid term, and in the mean time ſubject thereto, to the uſe and behoof of the ſaid *A. B.* and *C. D.* their heirs and aſſigns, for ever, upon the truſts hereinafter mentioned. PROVIDED always, and it is hereby expreſsly declared and agreed, by and between the ſaid parties to theſe preſents, and the true intent and meaning of them and of theſe preſents is, that as well the reſt, reſidue, and remainder yet to come, and unexpired of the ſame term of 1000 years, in and by the indenture of appointment and releaſe bearing date the — day of ——, limited in uſe to the ſaid *C. W.* and *U. F.* of and in the ſaid ſeveral manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, therein compriſed, and hereinbefore firſt mentioned, and intended to be hereby granted, aſſigned, and confirmed, unto the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, as the ſaid term of 1000 years, laſt hereinbefore limited in uſe to the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, of and in the ſaid ſeveral manors

Proviſo for redemption (*a*).

On repayment of the mortgage money with intereſt by inſtalments.

(*a*) See *Elem. Conv.* Bk. ii. Par. iii. Ch. v. Sec. iii. iv. v.

or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, therein compriſed, are ſo aſſigned and limited reſpectively as aforeſaid, ſubject to the proviſo or agreement hereinafter expreſſed and contained, (that is to ſay,) that if the ſaid *D. G.* and *R. S.* or either of them, their or either of their heirs, executors, adminiſtrators, or aſſigns, or any of them, do, and ſhall well and truly pay, or cauſe to be paid, unto the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, or the perſon or perſons to whom the freehold and inheritance of the ſaid meſſuages, &c. ſhall then legally belong or appertain, at or in the common dining-hall at ———, in the county of ——, the full and juſt ſum of ——, of lawful money of *Great Britain*, and according to the value of money in *Great Britain* being the ſaid principal ſum of ——, and the ſum of ——, as and for three years intereſt thereof, after the rate of — for ever 100*l.* for a year, in manner following, (that is to ſay,) the ſum of ——, part thereof, on the — day of ——, now next enſuing; the further ſum of ——, other part thereof on the — day of ——, which will be in the year of our Lord ——; the further ſum of ——, other part thereof on — the — day of —, then next enſuing; the further ſum of ——, other part thereof on the — day of ——, which will be in the year of our Lord ——; the further ſum of ——, other part thereof on the — day of ——, then next enſuing; and the further ſum of ——, being the reſidue, and in full payment thereof, on the — day of ——, which will be in the year of our Lord ——, MORTGAGE.

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without making any deduction or abatement whatſoever, out of the ſaid ſeveral ſums, or any part thereof, for or in reſpect of any taxes, rates, aſſeſſments, charges, payments, or impoſitions, whatſoever, already taxed, charged, aſſeſſed, or impoſed, or which at any time hereafter may be taxed, charged, aſſeſſed, or impoſed, upon the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, or any part or parts thereof, or upon the tenants or occupiers thereof, or upon the ſaid ſum of ——, intended to be hereby ſecured, or upon the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, or any of them, for or in reſpect thereof, by authority of parliament, or otherwiſe howſoever, then and in ſuch caſe, and at any time from and after ſuch payments as aforeſaid, ſhall be made to the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, he the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, ſhall and will, upon the requeſt, and at the coſts and charges of the ſaid *D. G.* and *R. S.* their heirs or aſſigns, or the perſon or perſons to whom the freehold and inheritance of the ſaid meſſuages, &c. ſhall then legally belong or appertain, aſſign, transfer, releaſe, ſurrender, or make void, the reſidue of the ſaid two ſeveral terms of —— years and ——, in ſuch manner as the ſaid *D. G.* and *R. S.* their heirs or aſſigns, ſhall direct or appoint: And the ſaid *D. G.* and *R. S.* for themſelves ſeverally and reſpectively, and for their reſpective heirs, executors, and adminiſtrators, do,

Covenant for payment of mortgage money (*a*).

(*a*) See 1 *P. Wms.* 271.

and each of them doth hereby covenant, promiſe, declare and agree, with and to the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, by theſe preſents, in manner following, (that is to ſay,) that they the ſaid *D. G.* and *R. S.* or their reſpective heirs, executors, or adminiſtrators, or ſome or one of them, ſhall and will well and truly pay, or cauſe to be paid, unto the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, the ſaid ſum of ——, at the days and times, and in the manner in the proviſo hereinbefore mentioned and appointed for payment thereof, without any manner of deduction or abatement whatſoever, to be made thereout, or in reſpect thereof, as aforeſaid, and according to the true intent and meaning of the proviſo or condition hereinbefore for that purpoſe contained; And alſo that it ſhall and may be lawful to and for the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, after default, if any ſhall happen to be made in the payment of the ſaid ſum of ——, or any part thereof, contrary to the ſaid proviſo and covenant, hereinbefore in that behalf contained, peaceably and quietly, as well into and upon the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, hereinbefore firſt mentioned, to be hereby aſſigned, for the reſidue of the ſaid term of 1000 years, as aforeſaid, as into and upon the ſaid other manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, hereinbefore laſt mentioned to be hereby limited in uſe for the term of —— years, as aforeſaid, reſpectively, with their and every of their reſpective rights,

MORTGAGE.

In default to enter and poſſeſs, and peaceably and quietly to enjoy.

MORTGAGE. members, and appurtenances, to enter, and the ſame from thenceforth peaceably and quietly to have, hold, uſe, occupy, poſſeſs, and enjoy, and the rents, iſſues, and profits, thereof, to receive and take, to and for his or their own reſpective uſe and benefit, for and during the continuance of the ſaid two ſeveral terms of —— years and —— years, reſpectively, without the lawful let, ſuit, trouble, denial, eviction, or interruption, whatſoever, of, from, or by the ſaid *D. G. R. S. C. W.* and *W. F.* their reſpective heirs, executors, adminiſtrators, or aſſigns, or either of them, or any other perſon or perſons whatſoever, and that free and clear, and freely and clearly acquitted, exonerated, and diſcharged, or otherwiſe, by the ſaid *D. G.* and *R. S.* and their reſpective heirs, executors, and adminiſtrators, or ſome or one of them, at all times thereafter well and ſufficiently ſaved harmleſs and kept indemnified of, from, and againſt, all and all manner of former and other grants, bargains, ſales, uſes, truſts, jointures, dowers, intails, mortgages, judgments, eſtates, debts, titles, charges, and incumbrances whatſoever, had made, done, committed or ſuffered, or to be had, made, done, committed or ſuffered, by them the ſaid *D. G. R. S. C. W.* and *W. F.* or any other perſon or perſons whomſoever, ſave and except as appears by theſe preſents, AND FURTHER that the ſaid *D. G.* and *R. S.* and their heirs, and all and every other perſon and perſons whatſoever, having or lawfully claiming, or who ſhall or may

free and clear from, &c.

Further aſſurance after default (*a*).

(*a*) See Comber, 318. 1 L. Raym. 36.

at any time hereafter have or claim any eſtate, right, title, truſt, or intereſt whatſoever, at law or in equity, of, into, or out of the ſaid ſeveral manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, or any of them, or any part or parts thereof hereinbefore mentioned, to be hereby aſſigned or limited in uſe unto the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, for the ſaid reſpective terms of —— years and —— years as aforeſaid, or any part thereof, by, from, under, or in truſt for them, or any of them as aforeſaid, ſhall and will at any time or times, after default, (if any) ſhall happen to be made in payment of the ſaid ſum of ——, or any part thereof, contrary to the ſaid proviſo and covenant hereinbefore in that behalf contained, upon the reaſonable requeſt of the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, but at the coſts and charges of the ſaid *D. G.* and *R. S.* their heirs or aſſigns, make, do, acknowledge, levy, ſuffer, and execute, and cauſe and procure to be made, done, acknowledged, levied, ſuffered, and executed all and every ſuch further and other lawful and reaſonable acts, deeds, fines, recoveries, conveyances and aſſurances in the law whatſoever, for the further, better, and more effectually granting, aſſigning, limiting, aſſuring, and confirming all and ſingular the ſaid ſeveral manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, with their and every of their rights, members, and appurtenances hereinbefore mentioned and intended to be hereby aſſigned and limited in uſe reſpectively as afore-

MORTGAGE.

MORTGAGE. ſaid, unto the ſaid *G. W.* his executors, adminiſtrators, and aſſigns for and during the reſidue and remainder of the ſaid two ſeveral terms of —— years and —— years reſpectively, which ſhall be then to come and unexpired, therein freed, releaſed, and diſcharged, of and from the proviſo hereinbefore contained for redemption of the ſaid premiſes, and all other right, title, and equity of redemption whatſoever, and by ſuch ways and means as by the ſaid *G. W.* his executors, adminiſtrators and aſſigns, or his, their, or any of their counſel in the law ſhall in that behalf be adviſed, and reaſonably required; and it is hereby declared and agreed by and between the ſaid parties to theſe preſents, and the true intent and meaning of them, and of theſe preſents is, that the ſaid *A. B.* and *C. D.* and the ſurvivor of them and his heirs ſhall ſtand and be ſeiſed of all and ſingular the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes herein before limited and appointed, granted, releaſed, conveyed and confirmed reſpectively, or expreſſed and intended ſo to be, with their and every of their rights, members, and appurtenances, upon the ſeveral truſts, and to the ſeveral ends, intents and purpoſes herein after expreſſed and declared, of, and concerning the ſame, (that is to ſay) upon truſt, that the ſaid *A. B.* and *C. D.* and the ſurvivor of them and his heirs and aſſigns, ſhall and do, permit and ſuffer the ſaid *D. E.* and his aſſigns, and ſuch other perſon or perſons as would

Mortgager to enjoy till default of payment. (*a*)

(*a*) See 1 *Pow.* Mortg. 1127.

have been intitled to the ſaid hereditaments and premiſes herein before mentioned and intended to be hereby limited and appointed, granted, releaſed, conveyed, ratified, and confirmed, under or by virtue of the ſaid, in part recited indenture of leaſe and releaſe, bearing date the —— and ——, day of ——, and the recovery ſuffered in purſuance thereof, in caſe theſe preſents had not been made to receive and take the rents, iſſues and profits of all and every the ſaid manors, or lordſhips towns, meſſuages, lands, tenements, hereditaments and premiſes, until default ſhould be made in payment of the ſaid ſum of ——, as aforeſaid, or ſome part thereof; and in caſe of the whole of the ſaid ſum of ——, ſhall have been paid on or before the ſaid — day of ——, which will be in the year of our Lord ——; then upon truſt, that they the ſaid *A. B.* and *C. D.* and the ſurvivor of them or his heirs, do and ſhall at the coſts and charges of the ſaid *D. G.* and *R. S.* or of their reſpective heirs, executors or adminiſtrators, and ſo as the ſaid *A. B.* and *C. D.* and the ſurvivor of them and his heirs be not compelled or compellable for the doing thereof, to go or travel from their or his dwelling, convey, and aſſure the ſaid ſeveral manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes expreſſed to be hereby appointed, granted and releaſed, limited and aſſured, unto, and to the uſe of the ſaid *D. G.* and *R. S.* their heirs and aſſigns, or as they ſhall direct or appoint. But in caſe the

MORTGAGE.

And on payment of a given ſum to reconvey the premiſes.

But in default of payment on a given day, the premiſes to be ſold. (*a*)

(*a*) See *Pow.* Mortg. 13.

MORTGAGE. ſaid ſum of ——, or ſome part thereof, ſhall on the ſaid — day of —, remain unpaid or unſatisfied, and ſhall not be paid within 40 days then next enſuing, then upon truſt, that they the ſaid *A. B.* and *C. D.* or the ſurvivor of them or his heirs, ſhall as ſoon after the ſaid 40 days as conveniently may be by the direction of the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, and without the interpoſition or aſſent of the ſaid *D. G.* and *R. S.* their heirs, or aſſigns, or any of them, by public ſale or auction, or private contract, in ——, or ——, upon reaſonable notice to be given for that purpoſe, make ſale and abſolutely diſpoſe, either entirely together or in parcels, of all and ſingular the ſaid ſeveral manors, or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes hereinbefore mentioned, and deſcribed with their appurtenances as aforeſaid, or of a ſufficient part thereof, and the equity of redemption and inheritance thereof; in fee ſimple, for the beſt price or prices in money that can be then reaſonably had or obtained for the ſame, and do and ſhall for that purpoſe, make and execute all ſuch deeds, conveyances and aſſurances, as they the ſaid *A. B.* and *C. D.* or the ſurvivor of them, or the heirs of ſuch ſurvivor ſhall think fit; and it is hereby agreed and declared that the ſaid *A. B.* and *C. D.* and the ſurvivor of them, his heirs, executors and adminiſtrators, ſhall and may in the firſt place retain, reimburſe and pay themſelves reſpectively, all ſuch coſts, charges, and expences as they reſpectively ſhall or may ſuſtain, expend, or be put unto by cauſing the ſaid hereditaments and premiſes, or

any part or parts thereof to be ſold, and in making out proper extracts of the title thereto, to be delivered to the purchaſer or purchaſers thereof, and otherwiſe reſpecting or in anywiſe relating or incident to ſuch ſale or ſales as aforeſaid, or any act neceſſary to be done by them in purſuance of the truſts aforeſaid, or of any covenant, clauſe, matter or thing herein contained or expreſſed; and then that the ſaid *A. B.* and *C. D.* and the ſurvivor of them, his executors, or adminiſtrators, do and ſhall thereout pay to the ſaid *G. W.* his executors, adminiſtrators or aſſigns, the ſaid ſum of —, of lawful money of *Great Britain*, or ſo much thereof as ſhall then remain unpaid, and all further intereſts then due and owing for the ſame; and after the ſeveral deductions and payments aforeſaid, then that the ſaid *A.B.* and *C.D.* or the ſurvivor of them his executors or adminiſtrators, do and ſhall pay the reſidue (if any) of the money to ariſe by ſuch ſale or ſales ſo to be made as aforeſaid, after paying and diſcharging the coſts and charges, in or about, or relating to the execution of the ſaid truſt, and the ſaid ſum of ——, and all intereſts then due and owing for the ſame at the rate aforeſaid, unto the ſaid *D. G.* and *R. S.* their executors, adminiſtrators and aſſigns, and do and ſhall convey and aſſure ſuch part or parts of the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes expreſſed or intended to be hereby granted, and releaſed, limited, and appointed as aforeſaid, as ſhall then remain unſold and undiſpoſed of, unto and to the uſe of the ſaid *D. G.* and *R. S.* their heirs or aſſigns, or as he or

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Truſtees receipts to be ſufficient diſcharges, &c. (*a*)

(*a*) See *Co. Lit.* 8vo. 29 b. and *Pow Mortg.* 312.

ſigned as aforeſaid, and that ſuch purchaſer or purchaſers, his, her or their heirs, executors, adminiſtrators and aſſigns ſhall not be obliged to enquire or know whether the ſum of money and intereſt intended to be hereby ſecured as aforeſaid, or any part thereof, are or is then owing, and that after ſuch receipt or receipts ſhall be ſigned and delivered to the purchaſer or purchaſers, his, her, or their heirs, executors, adminiſtrators or aſſigns, he, ſhe, or they, or his, her, or their heirs, executors, adminiſtrators or aſſigns, ſhall not be obliged to ſee to the application of his, her, or their purchaſe money, or to be anſwerable or accountable for any loſs, miſapplication or nonapplication of the ſum or ſums of money which in or by ſuch receipt or receipts ſhall be acknowledged, or expreſſed to be received, or any part thereof. And the ſaid *D.G.* and *R.S.* for themſelves ſeverally and reſpectively, and for their reſpective heirs, executors and adminiſtrators do, and each of them doth covenant, promiſe and agree, to and with the ſaid *A. B.* and *C. D.* their heirs, and aſſigns, by theſe preſents in manner following, that is to ſay, that they the ſaid *D.G.* and *R.S.* or ſuch one of them or his heirs, as may be intitled to the ſaid equity of redemption in the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes mentioned, to be hereby granted and releaſed, limited and appointed as aforeſaid, ſhall and will, well and truly pay or cauſe to be paid unto all and every ſuch reſpective perſon or perſons, and his, her, or their aſſigns for, and during the lives of any of them, ſuch annuity or annuities,

Covenant by perſons entitled to the equity of redemption of the premiſes to pay annuity affecting the ſame.

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and all arrears thereon, or any part thereof due, as the ſaid *G.H.* by his laſt will and teſtament hereinbefore recited, charged upon all his real and perſonal eſtates whatſoever, and whereſoever, and which were afterwards by indentures of leaſe and releaſe herein before recited reſpectively, bearing date the — day and — days of —, more particularly charged on certain hereditaments and premiſes therein particularly mentioned and deſcribed, of which the manors, or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes expreſſed or intended to be hereby granted and releaſed, limited and appointed as aforeſaid are part, free and clear of, and from all taxes, charges and other deductions whatſoever, parliamentary or otherwiſe, at the days and times, and in manner and form as are limited or appointed for payment of the ſame; And alſo, that they the ſaid *D. G.* and *R. S.* their heirs, executors, or adminiſtrators, or ſome or one of them ſhall, and will from time to time, and at all times hereafter, ſave, defend, keep harmleſs, and indemnified the ſaid *A. B.* and *C. D.* their heirs, and aſſigns, and every of them, and the ſaid manors, lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes ſo appointed, granted, releaſed, limited and conveyed to the ſaid *A. B.* and *C. D.* their heirs and aſſigns as aforeſaid, and every of them and every part thereof, and the ſaid two ſeveral terms of — and — years, reſpectively of, from, and againſt, the aforeſaid ſum of — appointed by the ſaid above in part recited indenture, bearing date the — day of —, to the younger children of the ſaid *D. G.* as aforeſaid, and all intereſt due

And indemnify againſt portions charged alſo on the premiſes.

or hereafter to grow due for the ſame, and every or any part thereof, and of, from and againſt all actions, ſuits, loſſes, coſts, charges, damages and expences, which the ſaid *A. B.* and *C. D.* or the ſaid *G. W.* their heirs, executors, adminiſtrators and aſſigns reſpectively, or any of them ſhall, or may at at any time hereafter ſuſtain, expend, or be put unto by reaſon, or on account of the levying or raiſing the ſaid ſum of —, or any part thereof, or the intereſt thereof, and alſo, that they the ſaid *D. G.* and *R. S.* ſome or one of them at the time of ſealing or delivery hereof, are or is lawfully, rightfully and abſolutely ſeiſed, or their, ſome, or one of their demeſnes of fee, and the ſaid manors, or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes hereinbefore mentioned, to be hereby limited and appointed, granted, releaſed and confirmed and every part and parcel thereof, with their, and every of their rights, members, and appurtenances of a good, ſure, perfect, abſolute and indefeaſable eſtate of inheritance, in fee ſimple in poſſeſſion, without any reverſion, remainder, truſt, limitation, power of revocation, uſe, uſes, or any other matter, reſtraint, or thing whatſoever, to alter, change, charge, revoke, make void, or leſſen, incumber, or determine the ſame, and alſo, that they the ſaid *D. G. R. S. P. R.* and *J. J.* at the time of the ſealing and delivery of theſe preſents, or ſome or one of them have or hath in themſelves or himſelf, good right, full power, and lawful, and abſolute authority to grant, bargain, ſell, releaſe, limit, appoint, convey and

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assure all and singular, the said manors or lordships towns, messuages, lands, tenements, hereditaments and premises mentioned, to be hereby granted, released and appointed as aforesaid, with their respective rights, members, and appurtenances unto the said *A. B.* and *C. D.* and their heirs, to the uses, upon the trusts, and to and for the intents and purposes, and subject to the powers, provisos, declarations and agreements herein before declared and expressed, of and concerning the same, subject to the charges hereinbefore recited, and that in case the said manors, or lordships, and other hereditaments and premises, or any part or parts thereof, shall be sold in pursuance of the trusts herein before declared for that purpose, it shall be lawful for the purchaser or purchasers thereof, his, her, or their heirs and assigns, from thenceforth, from time to time, and at all times for ever, peaceably and quietly, to have, hold, and enjoy the same, and to receive and take the rents, issues, and profits thereof, and every part thereof, to and for his, and their own use and benefit, without the lawful let, suit, trouble, hindrance, molestation, interruption or denial, of, from or by them, the said *D. G. N. S.* or the said *P. N.* and *J. J.* or any of them, or any of their heirs, or any person or persons whomsoever, having or lawfully, or equitably claiming, or who shall or may have, or lawfully, or equitably claim any estate, right, title, trusts or interests, into or out of the said hereditaments and premises herein before mentioned, and described, or any part thereof, by, through, from, under, or in trust for the said *D. G. R. S.*

In case the premises are sold the purchaser shall quietly enjoy.

P. R. and *J. J.* or either of them, or by, from, through or under the ſaid *G. H.* deceaſed, or by, from, through, or under their, or any of their right, title, eſtate, or intereſt, and that free and clear, and freely and clearly, and abſolutely acquitted, exonerated, and diſcharged, or otherwiſe by the ſaid *D. G.* and *R. S.* their heirs, executors, and adminiſtrators, ſaved, defended, kept harmleſs, and indemnified, of, from and againſt all manner of former and other gifts, grants, bargains, ſales, mortgages, annuities, jointures, dowers, thirds, right and title of dowers, and thirds, uſes, intails, rents, and arrears of rents, ſtatutes of judgments, recognizances, executions, extents, debts due to the king's majeſty, and all other debts, tithes, charges, or incumbrances whatſoever, made, done, committed, or executed, or wittingly or willingly ſuffered by the ſaid *D. G. R. S. P. R.* and *J. J.* or any of them, or by the ſaid *G. H.* deceaſed, or any perſon or perſons lawfully claiming, by, from, through, or under, or in truſt for them, or any of them, o by, through, or with their, or any of their acts, deeds, means, conſent, procurement, default, or privity, except the ſeveral ſubſiſting leaſes and the annuities, and reſpective ſums of ——, and ——, hereinbefore recited, to have been charged thereon as aforeſaid; and further, that if the ſaid manors, or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes mentioned to be hereby granted and releaſed, limited, and appointed as aforeſaid, or any part or parts thereof, ſhall be ſold in purſuance of the truſt hereinbefore declared for that purpoſe, the ſaid *D. G.* and *R. S.* MORTGAGE.

MORTGAGE. and their heirs, and all and every other perſon and perſons whomſoever, having, or lawfully claiming, or who ſhall or may hereafter have or claim any juſt right, title, or intereſt of, in, to, or out of the ſaid manors orlordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes, or any of them, or any part or parts thereof, by, from, through, or under the ſaid *D. G.* and *R. S.* or by, through, or under the ſaid *G. H.* deceaſed, or either of them, or by, through, or under their or any of their right, title, eſtate, or intereſt, other than except as aforeſaid, ſhall and will, at any time or times, after the ſame ſhall be ſold and conveyed at the requeſts, coſts, and charges of the purchaſer or purchaſers thereof, make, do, acknowledge, levy, ſuffer, and execute, or cauſe and procure to be made, done, acknowledged, levied, ſuffered, and executed, all and every or any ſuch further or other lawful and reaſonable act and acts, thing and things, devices, conveyances, and aſſurances in the law whatſoever, for the further and better, and more perfect and abſolute granting, conveying, and aſſuring, all and ſingular the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments and premiſes, and every part and parcel thereof, with their reſpective rights, members, and appurtenances, unto and to the purchaſer or purchaſers thereof, his, her, or their heirs or aſſigns, or as he, ſhe, or they ſhall direct or appoint, as by his, her or their, or any of their counſel in the law ſhall be lawfully and reaſonably deviſed or adviſed and required; and alſo that in caſe the ſaid hereditaments and premiſes, or any part or parts thereof, ſhall be ſold in

purſuance of the truſt hereinbefore declared for that purpoſe, they the ſaid *D. G.* and *R. S.* and their heirs, if required, ſhall and will join in ſuch ſale, and execute the ſeveral conveyances of the premiſes to be ſold unto the uſe of the purchaſer or purchaſers thereof, his, her, or their heirs and aſſigns, or as he, ſhe, or they ſhall direct or appoint, and enter into all proper and reaſonable covenants with the purchaſer or purchaſers, his, her, or their heirs or aſſigns, for the title, poſſeſſion, and further aſſurance of the premiſes ſo to be ſold, nevertheleſs it is hereby agreed and declared, that the joining of the ſaid *D. G.* and *R. S.* or their heirs, in any ſuch ſale or ſales, conveyance or conveyances ſo to be made and executed as aforeſaid, ſhall not in any wiſe be deemed eſſential or neceſſary to perfect the title of the purchaſer or purchaſers of any part thereof, the ſame being intended for the further ſatisfaction only of ſuch purchaſer or purchaſers. PROVIDED ALWAYS, and it is hereby agreed and declared, that the ſaid *A. B.* and *C. D.* and each of them, and each of their reſpective heirs, executors, and adminiſtrators, ſhall be charged and chargeable only for and with their reſpective receipts, payments, acts, and wilful defaults, and ſhall not be charged or chargeable with, or anſwerable or accountable for any ſum or ſums of money, other than ſuch as ſhall by the means hereinbefore mentioned, actually come to their reſpective hands, their joining in any receipt

Proviſo for truſtees indemnity. (*a*).

(*a*) See Elem. Con. Bk. ii. Par. iii. Ch. vii.

MORTGAGE. or receipts for the ſake of conformity notwithſtanding; nor ſhall any or either of them be accountable or anſwerable for the other or others of them, but each of them for his own acts and receipts only; nor ſhall they or any of them be accountable or anſwerable for any loſs or damage which ſhall happen by depoſiting or placing the truſt monies to ariſe by ſuch ſale or ſales to be made as aforeſaid, or any part thereof, in any bank or banker's hands or elſewhere, for ſafe cuſtody or otherwiſe howſoever, in the execution of the aforeſaid truſts, ſave ſuch only as ſhall happen by or by reaſon or means of his or their reſpective wilful acts, neglect or default; and the ſaid *D. G.* and *R. S.* do, and each of them doth by theſe preſents, grant unto the ſaid *A. B.* and *C. D.* and their heirs, all deeds, evidences, inſtruments, and writings, touching and concerning all and ſingular the ſaid manors, or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes hereinbefore mentioned and deſcribed, or any of them, or any part thereof, and which do not alſo relate to other hereditaments of greater value, which they the ſaid *D. G.* and *R. S.* or either of them have or hath in their or either of their hands, cuſtody, or power, or which they or either of them can have, or come by, without ſuit at law or in equity, and true and atteſted copies of all ſuch other deeds, evidences, inſtruments, and writings, touching or concerning the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, or any of them, or any part or parcel thereof, and which relates alſo to

other hereditaments of greater value, ſuch copies as ſhall be required before or at the time of the execution of theſe preſents, to be made and written at the coſts and charges of the ſaid *D. G.* and *R. S.* and all future copies to be made and written at the coſts and charges of the ſaid *A. B.* and *C. D.* their heirs or aſſigns. AND WHEREAS in and by the ſaid indenture of releaſe of the —— day of —— hereinbefore mentioned, and referred to a ſtatute-ſtaple bond, acknowledged by *B. D.* on the —— day of ——, before the mayor and conſtable of ———, to *F. R.* eſq. in the penalty of £—— for ſecuring £—— and intereſt, and alſo a judgment obtained by *O. M.* in —— term in —— againſt the ſaid *B. D.* for £——, beſides coſts, for ſecuring £—— and intereſt, afterwards veſted in *L. A.* eſq. and alſo a judgment obtained by the ſaid *L. A.* eſq. againſt the ſaid *B. D.* in —— term ——, for £——, for better ſecuring to the ſaid *L. A.* the ſaid ſum of —— and intereſt, and alſo a judgment obtained by *A. G.* againſt the ſaid *B. D.* in —— term ——, for £—— for ſecuring £—— and intereſt, and alſo a judgment obtained by ———, againſt the ſaid *B. D.* in —— term ——, for £—— for ſecuring £—— and intereſt, and alſo two ſeveral judgments obtained by *D. W.* againſt the ſaid *B. D.* in —— term ——, for £—— each, and alſo for the ſeveral judgments obtained by the ſaid *D. W.* in —— term ——, againſt the ſaid *B. D.* for ——, and the others for —, and alſo a judgment obtained by *T. R.* in — term —, againſt the ſaid *B. D.* for — were aſſigned to *I. L.* and *S. G.* their executors, adminiſtrators and aſſigns, in truſt for the ſaid *B. W.*

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MORTGAGE. and *M. P.* and their heirs, in order to protect the ſaid premiſes from all meſne charges, and incumbrances, if any ſuch there were. AND whereas in and by the ſaid indenture of releaſe bearing date the —— day of ——, hereinbefore partly recited, they the ſaid *D. G.* and *R. S.* did thereby direct that the ſaid *T. L.* and *S. G.* their executors and adminiſtrators, ſhould ſtand and be poſſeſſed of the ſaid ſtatute-ſtaple, and the ſeveral judgments hereinbefore mentioned, in truſt, as to the ſeveral hereditaments and premiſes hereinbefore granted and releaſed, limited and appointed, for the ſaid *G. W.* and *W. F.* their executors, adminiſtrators, and aſſigns, for better ſecuring to them the payment of the ſaid recited ſum of ——, and ſubject thereto in truſt, to attend the inheritance of the ſaid premiſes. NOW THIS INDENTURE WITNESSETH, that for the conſiderations aforeſaid, and for and in conſideration of the further ſum of 5s. of like lawful money of *Great Britain*, to the ſaid *I. L.* and *S. G.* in hand paid by the ſaid *A. B.* and *C. D.* at and before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, at the deſire and by the direction as well of the ſaid *D. G.* and *R. S.* as of the ſaid *C. W.* and *H. T.* teſtified by their reſpectively being parties hereunto, and ſigning and ſealing this indenture, they the ſaid *T. L.* and *S. G.* have granted, ſold, aſſigned, transferred, and ſet over, and by theſe preſents do, and each of them doth aſſign, transfer, and ſet over, unto the ſaid *A. B.* and *C. D.* their executors and adminiſtrators, the ſaid ſtatute-ſtaple and the ſeveral judgments hereinbefore mentioned, and all the benefit thereof,

Further witneſs. Aſſignment of ſtatute-ſtaple, &c. to protect from ſubſequent incumbrances.

and all ſum and ſums of money ſecured thereby, or recoverable thereupon; and all powers and remedies which they the ſaid *T. L.* and *S. G.* or either of them have or hath, or ever had for recovery of the ſame monies, or for ſuing out execution upon, or otherwiſe proſecuting the ſaid judgment, TO HAVE, HOLD, AND ENJOY the ſaid ſtatute and the ſeveral judgments hereinbefore mentioned, to be hereby aſſigned; and all the benefits thereof unto the ſaid *A. B.* and *C. D.* their executors, adminiſtrators, and aſſigns, abſolutely for ever, in truſt for the ſaid *G. W.* his heirs and aſſigns, to be by him or them at all times hereafter, made uſe of for protecting and preſerving the ſaid hereditaments and premiſes by theſe preſents hereinbefore limited and conveyed, of and from all manner of meſne charges, and incumbrances, (if any ſuch there be,) and the ſaid *T. L.* and *S. G.* do, and each of them doth ſeverally and reſpectively, and not jointly, or the one for the other of them, but each of them for himſelf, and his own heirs, executors, and adminiſtrators, covenant, promiſe, and agree, to and with the ſaid *A. B.* and *C. D.* their executors, adminiſtrators, and aſſigns, that they the ſaid *T. L.* and *S. G.* hath not at any time heretofore done or committed any act, matter, or thing, whatſoever, by means whereof the ſaid ſtatute ſtaple, and judgments hereby aſſigned or expreſſed, and intended ſo to be, or any of them is, are, ſhall, or may be aſſigned, diſcharged, vacated, or incumbered, in any manner whatſoever. AND this indenture further witneſſeth, that for the

MORTGAGE.

Declaration that certain debt

MORTGAGE. more effectually ſecuring the payment of the ſaid ſum of ——, and the intereſt thereof, at the rate aforeſaid, to the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, at the times, and places, and manner aforeſaid, the ſaid *D. G.* doth hereby covenant, promiſe, and agree, to and with the ſaid *G. W.* his executors, adminiſtrators and aſſigns, that whilſt the ſaid ſum of ——, and the intereſt thereof, or any part thereof, reſpectively, ſhall be due or owing on the preſent mortgage or ſecurity, he the ſaid *D. G.* ſhall and will conſent and agree, and he doth hereby conſent and agree that the ſaid ſum of —— and the intereſt thereof, at the rate aforeſaid, ſhall take place of, and be paid before the ſaid ſum of ——, admitted to be owing and due to the ſaid *D. G.* in the ſaid hereinbefore in part recited report, made on the — day of ——, and that the payment of the ſaid ſum of ——, ſhall be poſtponed until the ſaid ſum of ——, and the intereſt thereof, at the rate aforeſaid, ſhall be paid and diſcharged, ſo as to give the ſaid ſum of ——, and the ſaid intereſt thereof, a priority, as to the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, to the ſaid ſum of ——, and alſo that the ſaid *D. G.* his executors, adminiſtrators, or aſſigns, ſhall not claim the ſaid ſum of ——, out of the ſaid manors or lordſhips, towns, meſſuages, lands, tenements, hereditaments, and premiſes, hereinbefore granted und releaſed, until the ſaid ſum of ——, and the intereſt thereof, of the rate aforeſaid, be fully paid unto the ſaid *G. W.* his executors, adminiſtrators, or aſſigns; and it is here-

ſhall have a priority.

by further declared and agreed, by and between the said parties to theſe preſents, that until default ſhall happen to be made in payment of the ſaid ſum of ——, or ſome part thereof, contrary to the proviſo and covenant hereinbefore in that behalf contained, it ſhall and may be lawful to and for the ſaid *D. G.* and his aſſigns, and for the other perſon or perſons who under or by virtue of the ſaid in part recited indentures of leaſe, and releaſe, and recovery, would have been entitled to the ſaid hereditaments and premiſes mentioned, and intended to be hereby granted and releaſed, in caſe theſe preſents had not been made, to have, hold, occupy, poſſeſs, and enjoy the ſaid hereditaments and premiſes, and to receive and take the rents, iſſues, and profits thereof, and of every part thereof, to and for his and their own uſe and benefit, without the lawful let, ſuit, trouble, denial, moleſtation, or interruption whatſoever, of, from, or by the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, or any of them, the reſidue of the ſaid term of —— years hereinbefore aſſigned and limited, in uſe unto the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, or any other thing hereinbefore contained, to the contrary thereof, in any wiſe notwithſtanding, and he, the ſaid *G. W.* doth hereby for himſelf, his heirs, executors, and adminiſtrators, covenant and declare to and with the ſaid *D. G.* his heirs, executors, and adminiſtrators, that if he, the ſaid *D. G.* his heirs, execu-

MORTGAGE.

Proviſo for reduction of intereſt on punctual payment. (*a*)

(*a*) See *Elem. Conv.* Bk. ii. Par. iii. Ch. v.

MORTGAGE. tors, or adminiſtrators, do, and ſhall, yearly and every year from time to time, for ſo long time as the ſaid principal ſum of ——, or any part thereof, ſhall remain due and owing to the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, upon this preſent mortgage and ſecurity, well and truly pay or cauſe to be paid unto the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, by equal half-yearly payments, upon every — day of — and — day of — in every year, or within two calendar months, next after every of the ſame reſpective half-yearly days of payment, the yearly ſum of ——, of lawful money of Great Britain (being after the rate of —, for every hundred yearly) and ſo proportionably and after that rate for ſo much of the ſaid ſum of — as ſhall then remain due or owing, then and in ſuch caſe, and not otherwiſe, he, the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, ſhall and will, from time to time, receive and accept of the ſame in lieu and full ſatisfaction of and for the intereſt of the ſaid principal ſum of ——, after the rate of —, for every hundred yearly, hereinbefore provided and covenanted to be paid for the ſame principal ſum; and ſhall and will from time to time give receipts and diſcharges for the ſame accordingly, as if the whole intereſt of the ſaid —, after the rate of —, for the hundred yearly, were actually paid, any covenant, proviſo, or agreement, hereinbefore contained, to the contrary thereof notwithſtanding.

Recital of bond & Judgment.

AND whereas, the ſaid *D. G.* hath executed a bond or obligation, bearing even date with theſe preſents, and entered into by him, the ſaid *D. G.* to the ſaid *G. W.* in the penal ſum

of —, conditioned for payment of the ſum of —, at the places, times, and manner therein expreſſed to the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, and performance of the covenants in this indenture contained, and alſo duly executed a warrant of attorney for confeſſing a judgment thereon, and which ſaid judgment thereon is intended to be entered on —, in his Majeſty's Court of King's-Bench, at Weſtminſter, as of Trinity term —, or of ſome other ſubſequent Trinity term, this indenture further witneſſeth, and it is hereby declared and agreed by and between the ſaid parties to theſe preſents, that the ſaid ſum of —, ſecured by the ſaid bond in the ſame ſum of —, as is meant and intended to be ſecured by theſe preſents as aforeſaid, and that the ſaid judgment upon the aforeſaid bond to the ſaid *G. W.* is intended to be entered up, and the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, is and are to ſtand and be poſſeſſed thereof, and of all benefit and advantage ariſing, and to be had or taken thereby as a collateral ſecurity, only, and for the better and more effectual payment of the ſaid ſum of —, to the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, at the ſeveral days and times and in the manner hereinbefore appointed for the payment thereof, and that no execution or executions ſhall be iſſued or taken out upon the ſaid judgment, and until ſome one half yearly payment of the ſaid ſum or any part thereof, ſhall be in arrears for the ſpace of two calendar months, next, after ſome or one of the ſaid days hereinbefore limited and appointed for payment thereof; Provided always, and it is hereby

MORTGAGE.

Which is to be as a collateral ſecurity.

No execution to be had till default.

MORTGAGE. further declared and agreed by and between the ſaid parties to theſe preſents, and the true intent and meaning of theſe preſents, of the ſaid parties hereto, is, and the ſaid *G. W.* for himſelf, his heirs, executors, and adminiſtrators, doth hereby covenant, promiſe, and agree to and with the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, that when and ſo often as the ſaid half-yearly payment or any part thereof, ſhall be behind and unpaid by the ſpace of two calendar months next, over, or after any or either of the ſaid days and times hereinbefore mentioned or appointed for payment thereof, that then, and ſo often, and in every ſuch caſe, it ſhall and may be lawful to and for the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, to ſue out ſuch execution or executions, upon or by virtue of the ſaid judgment hereinbefore mentioned, as he or they ſhall think fit, or be adviſed for the recovery of the arrears of the ſaid half-yearly payments, and all coſts and charges which the ſaid *G. W.* his executors, adminiſtrators, and aſſigns, or any of them, ſhall bear, pay, ſuſtain, or be put unto by, or by reaſon or means of the non-payments of the ſame half-yearly payments, or any part thereof, and that it ſhall not be neceſſary for the ſaid *G. W.* his executors, adminiſtrators, or aſſigns, to revive or cauſe the ſaid judgment to be revived, or to do any act, matter, or thing, to keep the ſame on foot, notwithſtanding the ſaid judgment ſhall have been entered on record for the ſpace of one year, or upwards, and notwithſtanding any rule or practice of the court in which the ſaid judgment ſhall be entered on record to the

contrary, and that the ſaid *D. G.* ſhall not, or will, have, take, or receive, any advantage for want of reviving or keeping the ſaid judgment on foot. In witneſs, &c. MORTGAGE.

Aſſignment of Mortgage Terms by Moieties upon Truſts, for ſecuring Sums advanced.

Parties.

THIS indenture of ſix parts, made, &c. BETWEEN the Right Hon. *E. W.* of —, ſole executor of the laſt will and teſtament of *C. M.* widow, deceaſed, who was ſole executor of the laſt will and teſtament of *Y. H.* late of, &c. deceaſed, who ſurvived *C. R.* late of, — &c. of the firſt part, *H. W.* of —, ſole executor of the laſt will and teſtament of *G. E.* late of, &c. deceaſed, (who ſurvived ſir *T. W.* of —, in the county of —, knight, the ſaid *Y. H.* the ſaid *C. R.* and *T. T.* of, — &c. of the ſecond part, *T. M.* of, &c. widow and relict of *T. T.* late of, &c. deceaſed, of the third part, *T. W.* of, &c. eldeſt ſon and heir of the ſaid *T.* and *T. M.* of the fourth part, *W. H.* of, &c. eſq. of the fifth part, and *T. S. T.* of, &c. the only ſurviving younger child of the ſaid *T. T.* and *T. M.* and ſole executor of the laſt will and teſtament of *T. T.* ſpinſter, his ſiſter lately deceaſed, of the ſixth part. Whereas, [*Recital of marriage ſettlement, and alſo of eſtates under a power contained therein, &c.*] AND whereas, the ſaid *T. J.* and *W. H.* did afterwards, with the conſent and approbation

Recital of laying out money in the ſtocks.

MORTGAGE. of the ſaid *T. W.* to lay out and inveſt the ſaid ſeveral ſums of —— and ——, and ——, amounting in the whole to the ſum of ———, the purchaſe money ſo received by them for ſale of the ſaid eſtates in the purchaſe of ——, three per cent conſolidated bank annuities, upon the truſts in the ſaid ſettlement of the —, day of ——, mentioned, and the ſaid *T. W.* hath from time to time received the dividends and intereſt thereof to his own uſe and benefit. AND whereas the ſaid

Of death. *T. T.* is ſince dead, by means whereof the ſaid ſum of ——, three per cent conſolidated bank annuities, became ſolely veſted in the ſaid *W. H.*

Of will of Y. H. And whereas, the ſaid *Y. H.* ſurvived the ſaid *C. R.* and the ſaid *Y. H.* is ſince dead, having by his laſt will and teſtament appointed the ſaid *C. M.* ſole executrix thereof, who duly proved the ſame will and is ſince likewiſe dead, having, by her laſt will and teſtament appointed the ſaid *E. W.* of —, ſole executor thereof, who hath duly proved the ſame, in the proper eccleſiaſtical court whereby the ſaid term of ——— years, by the ſaid indenture of the — day of ——, &c. veſted in the ſaid *Y. H.* and *C. R.* is now become veſted in the

Of will of G. E. ſaid *E. W.* of —. AND whereas, the ſaid *G. E.* did ſurvive the ſaid ſir *T. W. T. T. Y. H.* and *C. R.* and the ſaid *G. E.* is ſince dead, having in his life time duly made his laſt will and teſtament, and appointed the ſaid *W. H.* ſole executor thereof, and the ſaid term of five hundred years in the ſaid indenture of the — day of ——, &c. is thereby now become veſted in the ſaid *H. W.* AND whereas, the ſaid *T. S. T.* and *T. T.* by virtue of

the will of their ſaid father, *T. T.* become intitled to the ſaid ſum of ——— pounds, ſecured of ——— years, created by the ſaid ſettlement of the year ——; and the ſaid *T. T.* being lately dead, and having made her will, and appointed the ſaid *T. S. T.* her executor, and he having proved the ſaid will is now in his own right, and as executor of his ſaid ſiſter become entitled to the ſaid ſum of ——— pounds. And whereas, the ſaid *T. S. T.* having occaſion for part of the ſaid ſum of ——, ſo due to him as aforeſaid, applied to the ſaid *T. W.* to raiſe and pay him the ſame, whereupon the ſaid *T. W.* applied to the *W. H.* to ſell and diſpoſe of the ſaid ſum of ——— pounds, &c. bank annuities, and to lend the money which ſhould be produced by ſuch ſale and diſpoſition, for the purpoſe of paying to the ſaid *T. S. T.* the ſame, and as a ſecurity for repaying the ſame to the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, and alſo as a ſecurity for payment of the reſidue of the ſaid ——, with intereſt for the ſame unto the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, the ſaid *T. W.* as alſo the ſaid *T. M.* propoſed, conſented, and agreed, that the reſidue now to come and unexpired, as well of the aforeſaid term of —— years, as of the ſaid term of —— years, ſeverally created and limited in and by the ſaid firſt hereinbefore recited indenture of releaſe and ſettlement, ſhould, as to one moiety of the manors, hereditaments, and premiſes therein compriſed, be aſſigned to and veſted in the ſaid *W. H.* his exe-

MORTGAGE.

of being intitled to the ſum —l. by will,

having occaſion for part of the ſaid ſum of —, hath applied to T. W. to pay him the ſame.

TERMS. cutors, adminiſtrators, and aſſigns, for the ſeveral intents and purpoſes hereinafter mentioned, and declared of and concerning the ſame; and as to the other moiety of the ſaid manors, hereditaments, and premiſes therein compriſed, be aſſigned to and veſted in the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, for the ſeveral intents and purpoſes hereinafter mentioned and declared of and concerning the ſaid laſt mentioned moiety.

Of ſale of ſtock. AND whereas, the ſaid *W. H.* upon the requeſt and by the direction of the ſaid *T. W.* hath ſold the ſaid capital ſum of £——, bank annuities, which, deducting brokerage, hath produced the ſum of ——, and at ſuch requeſt and by ſuch direction as aforeſaid, and with the conſent and approbation of the ſaid *T. M.* paid the ſaid ſum of £——, to the ſaid *T. S. T.* in diſcharge of the ſaid ſum of £——, ſo directed to be paid to him, and to his ſaid ſiſter *T. T.* by the will of the ſaid *T. T.* his late father as aforeſaid, and by the ſaid indenture of the — day of ——, &c. and indorſement thereon, ſo agreed to be raiſed as aforeſaid.

Conſideration, Now this indenture witneſſeth, that in purſuance of the ſaid agreement, and in part performance thereof, and in conſideration of the ſaid ſum of £——, of lawful money of *Great Britain*, at or before the ſealing and delivery of theſe preſents in hand paid to the ſaid *T. S. T.* by the ſaid *H. W.* by the direction and appointment of the ſaid *T. W.* and with the conſent and approbation of the ſaid *T. M.* teſtified by their ſeverally being parties to and ſealing and delivering theſe preſents, the re-

ceipt whereof the ſaid *T. S. T.* doth hereby ac- TERMS.
knowledge, and thereof and therefrom doth ac-
quit, releaſe, and diſcharge the ſaid *W. H.* his
heirs, executors, and adminiſtrators, and alſo the
ſaid *W. T.* his heirs, executors, adminiſtrators,
and aſſigns, by theſe preſents, and alſo in conſide-
ration of the ſum of five ſhillings of like lawful
money of *Great Britain*, in hand, well and truly
paid by the ſaid *W. H.* to the ſaid *E. W.* of —,
at or before the ſealing and delivery of theſe pre-
ſents, the receipt whereof is alſo acknowledged, he,
the ſaid *E. W.* of —, by the direction and ap-
pointment of the ſaid *T. M.* and *T. S. T.* teſtified
by their being parties to and extending theſe pre-
ſents, hath bargained, ſold, aſſigned, transferred, transfer,
and ſet over, and by theſe preſents, doth, by ſuch
direction and appointment teſtified as aforeſaid,
bargain, ſell, aſſign, transfer, and ſet over, and the
ſaid *T. M.* *T. W.* and *T. S. T.* have, and each of
them hath, ratified and confirmed, and by theſe
preſents do, and each of them doth, ratify and
confirm, unto the ſaid *W. H.* his executors, ad-
miniſtrators, and aſſigns, all that one undivided Premiſes.
moiety, or equal half-part of, and in all and every
the ſaid manors, meſſuages, lands, tenements, and
hereditaments, in the ſaid county of ——, and —
with their and every of their appurtenances com-
priſed in the ſaid term of —— years, in and by
the ſaid recited indenture of the — day of ——,
&c. created and limited to the ſaid *Y. H.* and
C. R. as aforeſaid; and of and in all houſes, out-
houſes, edifices, buildings, ſtables, cellars, ſollars,

MORTGAGE.

ſhambles, ways, entries, paths, paſſages, ponds, ſtreams, floodgates, wells, waters, water-courſes, woods, under-woods, trees, orchards, gardens, back-ſides, commons, common of paſture, eaſements, rights, liberties, profits, commodities, emoluments, privileges, advantages, hereditaments, and appurtenances whatſoever, to the ſaid meſſuages, tenements, lands, grounds, hereditaments, and premiſes, or any of them, or any part or parcel thereof, belonging, or in any wiſe appertaining, or therewith or with any of them, uſed, occupied, or enjoyed, or accepted, reputed, deemed, taken, or known, as part, parcel, or member thereof, and the reverſion and reverſions, remainder and remainders, yearly and other rents, iſſues, and profits of the ſaid one undivided moiety, or half-part of all and ſingular the ſaid manors, meſſuages, lands, tenements, and hereditaments, hereby bargained, ſold, and confirmed, unto the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, or intended ſo to be, and all the eſtate, right, title, intereſt, term of years now to come and unexpired, uſe, truſt, property, benefit, claim, and demand whatſoever, of him the ſaid *E. W.* of —, of, in, or to the ſame moiety and every part thereof; to have and to hold the ſaid undivided moiety or half-part of the ſaid manors, meſſuages, lands, tenements, hereditaments, and of all and ſingular other the premiſes hereinbefore bargained, ſold, and aſſigned, or intended ſo to be, with their and every of their appurtenances, unto the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, from henceforth, for and during all the reſt, reſidue, and remainder of

Habendum as to — years term.

the ſaid term of —— years, limited by and mentioned in the ſaid recited indenture of the — day of ——, &c. now to come and unexpired: but nevertheleſs upon the truſts, and ſubject to the proviſo hereinafter mentioned, declared, and contained, of and concerning the ſame term. And this indenture further witneſſeth, that in purſuance of the ſaid agreement, and in further part performance thereof, and alſo in conſideration of the ſaid ſum of £—, &c. ſo paid to the ſaid *T. S. T.* by the direction and appointment of the ſaid *T. M.* and *T. W.* by the ſaid *W. H.* as aforeſaid, and alſo in conſideration of the ſum of 5s. of like lawful money, in hand paid by the ſaid *W. H.* to the ſaid *F. W.* at or before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, he the ſaid *H. W.* by the direction and approbation of the ſaid *T. M. T. W.* and *T. S. T.* teſtified as aforeſaid, hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer, and ſet over, and the ſaid *I. W.* and *I. S. I.* have, and each of them hath ratified and confirmed, and by theſe preſents do, and each of them doth ratify and confirm unto the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, all that undivided moiety or equal half part of and in all and every the ſaid manors, meſſuages, lands, tenements, and hereditaments, in the ſaid counties of —— and —— with their and every of their appurtenances compriſed in the ſaid term of —— years, in and by the ſaid recited indenture of the — day of ——, created and limited to

MORTGAGE.

Further witneſs.

Transfer.

Premiſes.

TERMS. the ſaid ſir *T. W. T. T. G. E. Y. H.* and *C. R.* as aforeſaid, and of and in all the houſes, outhouſes, edifices, buildings, ſhops, cellars, ſollars, ſhambles, ways, entries, paths, paſſages, ponds, ſtreams, floodgates, wells, waters, water-courſes, woods, underwoods, trees, orchards, gardens, backſides, commons, common of paſture, eaſements, rights, liberties, profits, commodities, emoluments, privileges, advantages, hereditaments, and appurtenances whatſoever to the ſaid meſſuages, tenements, lands, grounds, hereditaments, and premiſes, or any of them, or any part or parcel thereof belonging, or in anywiſe appertainiug, or therewith, or with any of them uſed, occupied, or enjoyed, or accepted, reputed, deemed taken, or known, as part, parcel, or member thereof, and the reverſion and reverſions, remainder and remainders, yearly, and other rents, iſſue, and profits, of the ſaid undivided moiety or half part of all and ſingular the ſaid manors, meſſuages, lands, tenements, and hereditaments, hereby bargained, ſold, aſſigned, and confirmed, unto the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, or intended ſo to be, and all the eſtate, right, title, intereſt, term of years now to come and unexpired, uſe, truſt, property, benefit, claim, and demand, whatſoever, of him the ſaid *H. W.* of, in, or to the ſame moiety, and every part thereof,

Habendum as to — years term. TO HAVE AND TO HOLD the ſaid undivided moiety or half part of the ſaid manors, meſſuages, lands, tenements, and hereditaments, hereinbefore bargained, ſold, and aſſigned, and confirmed, or intended ſo to be, with their and every of their

TERMS.

appurtenances, unto the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, from henceforth, for and during all the reſt, reſidue, and remainder, of the ſaid term of — years, limited by, and mentioned in the ſaid recited indenture of the — day of ——, therein now to come and unexpired, but nevertheleſs, upon the truſt, and ſubject to the proviſo hereinafter mentioned, declared, and contained, of and concerning the ſame. And it is hereby declared and agreed, by and between the ſaid parties to theſe preſents, that the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, ſhall from henceforth ſtand and be poſſeſſed of the ſaid moiety hereinbefore aſſigned to the ſaid *W. H.* of the ſaid hereditaments and premiſes, compriſed in the ſaid terms of —— years, and —— years, in truſt, as to the ſaid moiety of the premiſes, compriſed in the ſaid term of —— years, in the firſt place, for the further ſecuring to the ſaid *T.* and her aſſigns, during her life, the due payment of one moiety or half part of the ſaid yearly ſum or rent-charge of ——, agreed to be accepted by her in lieu of the ſaid yearly ſum of ——, clear of all taxes, charges, and deductions, as aforeſaid, as the ſame moiety of the ſaid annual ſum of ——, ſhall become due and payable, and for that end and purpoſe, in caſe the ſaid moiety of the ſaid annual ſum or yearly rent-charge of ——, or any part thereof, ſhall, at any time or times, be behind or unpaid by the ſpace of — days, next after any of the feaſts, or times whereon it is payable, the ſaid *W. H.* his executors, adminiſtrators, or aſſigns, do, and ſhall from time to time, and at all

As to the moiety of the premiſes compriſed in the — years terms, upon truſt, for ſecuring a moiety of a rent-charge of —l.

Power to ſell if an annuity be unpaid by the ſpace of 60 days.

MORTGAGE.

times thereafter, by, with, and out of the rents, iſſues, and profits, of the ſaid moiety, hereby aſſigned to him, of the hereditaments compriſed in the ſaid term of —— years, or by mortgage or ſale thereof, or of any part thereof, for all or any part of the ſaid term, or by any other ways and means, levy and raiſe, and pay to the ſaid *T. M.* or her aſſigns, all ſuch arrears of the ſaid moiety of the ſaid annual ſum or yearly rent-charge of ——, as ſhall from time to time be unpaid, and due to her the ſaid *T. M.* or her aſſigns, together with all ſuch coſts, charges, and expences, as ſhe the ſaid *T. M.* or her aſſigns, ſhall ſuffer, ſuſtain, or be put unto, by reaſon or means of the non-payment thereof, and ſubject, and without prejudice to the moiety of the ſaid yearly ſum of ——, as to the ſaid moiety hereby aſſigned to him the ſaid *W. H.* of the ſaid hereditaments and premiſes, compriſed in the ſaid term of — years, and as to the ſaid hereditaments and premiſes compriſed in the ſaid term of — years, in truſt, for the better ſecuring unto the ſaid *W. H.* his executors, adminiſtrators, or aſſigns, the payment of the ſaid ſum of ——, and ſuch intereſt for the ſame as is hereinafter mentioned. PROVIDED always, and it is hereby declared and agreed, by and between the ſaid parties to theſe preſents, that from and immediately after the deceaſe of the ſaid *T. M.* and after payment to her executors, adminiſtrators, or aſſigns, of all arrears of the ſaid moiety of the ſaid yearly ſum of ——, that ſhall be due at the time of her death, and of all coſts, charges, and expences, that ſhall

As to the — years term upon truſt, for better ſecuring the payment of the ſaid ſum of, &c.

Proviſo, that after diſcharge of annuities, and all arrears thereof.

be occaſioned by the non-payment of the ſaid moiety of the ſaid yearly rent-charge of ——, or any part thereof, and of the ſaid *T. W.* his heirs, executors, adminiſtrators, or aſſigns, or the perſon or perſons who ſhall be entitled to the freehold or inheritance of the ſaid moiety of the ſaid premiſes expectant, on the reſpective determination of the ſaid ſeveral terms of — years and — years, do, and ſhall well and truly pay, or cauſe to be paid, unto the ſaid *W. H.* his executors, adminiſtrators, or aſſigns, the ſaid ſum of ——, ſo advanced and paid as aforeſaid, in lawful money of *Great Britain*, with intereſt for the ſame at the rate of 4l. for 100l. for a year, on the — day of —— next enſuing the date of theſe preſents, at or in the common dining-hall of ———, in the ſaid county of ——, without making any deduction or abatement thereout, or out of any part thereof, for or on account of any taxes, charges, rates, aſſeſſments, or impoſitions, ordinary or extraordinary, already taxed charged, aſſeſſed, or impoſed, at any time or times, or hereafter to be taxed, charged, aſſeſſed, or impoſed, upon the ſaid moiety hereby aſſigned to the ſaid *W. H.* of the ſaid manors, meſſuages, lands, tenements, and hereditaments, or any of them, or any part thereof, or the tenants, or the occupiers of the ſame, or a part of the ſaid principal ſum of ——, or the intereſt thereof, or any part thereof, reſpectively, or upon the ſaid *W. H.* his executors, adminiſtraiors, or aſſigns, in reſpect of the ſame, by authority of parliament, or otherwiſe howſoever, then, and after ſuch payment, the ſaid *W. H.* his

MORTGAGE.

Do and ſhall pay to the ſaid W H. the ſaid ſum of, &c.

and after payment thereof, to aſſign the

TERMS.

premiſes compriſed in the ſaid terms,

executors, adminiſtrators, or aſſigns, ſhall and will, by ſuch aſſignments and aſſurances in the law, as ſhall be reaſonable in that behalf, at the requeſt, coſts, and charges, of the ſaid *T. W.* or his heirs, or of the perſon or perſons who ſhall be next entitled to the freehold or inheritance of the premiſes compriſed in the ſaid ſeveral terms of — years and — years, immediately expectant on the determination of the ſame terms reſpectively, well and effectually aſſign and aſſure the ſaid moiety hereinbefore aſſigned, to the ſaid *W. H.* of all and ſingular the ſaid hereditaments and premiſes, and every part and parcel thereof, with the appurtenances thereto belonging, unto ſuch perſon or perſons as the ſaid *T. W.* or his heirs, or the perſon or perſons who ſhall be next entitled to the freehold or inheritance of the ſame premiſes expectant as aforeſaid, ſhall direct or appoint, for all the then reſidue of the ſaid ſeveral terms of —— years and —— years, freed, and abſolutely diſcharged of and from all charges and incumbrances whatſoever, to be had, made, done, or created, by him the ſaid *W. H.* his executors, adminiſtrators, or aſſigns, or any of them, and the ſaid *W.* earl of ——, for himſelf, his executors, and adminiſtrators, doth hereby covenant, promiſe, and agree, to and with the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, in manner following, (that is to ſay,) that he the ſaid *E. W.* of ——, hath not at any time heretofore, done, executed, committed, or willingly or wittingly permitted or ſuffered, any act, deed, matter, or thing, whatſoever, whereby the ſaid moiety here-

free from incumbrances.

Covenant from truſtee that he hath done no act to incumber.

inbefore aſſigned to the ſaid *W. H.* of the ſaid premiſes, in the ſaid counties of —— and ——, ſo limited, to the ſaid *Y. H.* and *C. R.* for the ſaid term of — years, or any part thereof, or the ſaid term of — years therein, or any part thereof, are, is, can, or ſhall or may be impeached, charged, or incumbered, in title, charge, eſtate, or otherwiſe howſoever. And the ſaid *W. H.* for himſelf, his executors, and adminiſtrators, doth hereby covenant, promiſe, and agree, to and with the ſaid *W. H.* his executors, adminiſtrators, and aſſigns, that he the ſaid *W. H.* hath not, at any time heretofore, executed, committed, or wittingly or willingly permitted or ſuffered any act, deed, matter, or thing, whatſoever, whereby the ſaid moiety hereinbefore aſſigned to the ſaid *W. H.* of the premiſes ſo limited, to the ſaid ſir *W. T. T. T. E. G. H. Y.* and *R. C.* for the term of —— years, or any part thereof, or the ſaid term of —— years therein, or in any part thereof, are, is, can, ſhall, or may be impeached, charged, or incumbered in title, charge, eſtate, or otherwiſe howſoever. And this indenture alſo further witneſſeth, that in further purſuance of the hereinbefore recited agreement, and in further part performance thereof, and for better ſecuring to the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, of the ſum of ——, reſidue of the ſaid £——, due to him in his own right, and as executor of the will of his ſaid ſiſter, and alſo for and in conſideration of the ſum of 5s. of lawful money of *Great Britain*, in hand, well and truly paid by the ſaid *T. S. T.* to the ſaid *W.* earl of

TERMS.

And this indenture alſo further witneſſeth, that in purſuance of the ſaid agreement, and for better ſecuring to the ſaid T S. T. the ſum of, &c.

and alſo in conſideration of 5s. he the ſaid W. earl of —, hath bargained, &c.

MORTGAGE. ——, at or before the ſealing or delivering of theſe preſents, the receipt whereof is hereby acknowledged, he the ſaid *W.* earl of ——, by the direction and appointment of the ſaid *T. W.* and *T. M.* teſtified by their being parties to and executing theſe preſents, hath bargained, ſold, aſſigned, transferred and ſet over, and by theſe preſents doth, by ſuch direction and appointment, teſtified as aforeſaid, bargain, ſell, aſſign, transfer, and ſet over, and the ſaid *T. M.* and *T. W.* have and each of them hath ratified and confirmed, and by theſe preſents do, and each of them doth ratify and confirm unto the ſaid *T. S. T.* his executors, adminiſtrators and aſſigns, all that other undivided moiety or equal half part of and in all and every the ſaid manors and meſſuages, lands and tenements, and hereditaments, in the ſaid counties of —— and ——, with their and every of their appurtenances compriſed in the ſaid term of —— in and by the ſaid recited indenture of the — day of ——, created and limited to the ſaid *Y. H.* and *C. R.* as aforeſaid, and of, and in all houſes, outhouſes, edifices, buildings, ſhops, cellars, ſollars, ſhambles, ways, entries, paths, paſſages, ponds, ſtreams, flood-gates, wells, waters, water-courſes, woods, underwoods, trees, orchards, gardens, backſides, commons, common of paſture, eaſements, rights, liberties, profits, commodities, emoluments, privileges, advantages, hereditaments, and appurtenances whatſoever, to the ſaid meſſuages, tenements, lands, grounds, hereditaments and premiſes, or any of them, or any part or parcel thereof, belonging or in any wiſe appertaining, or there-

All that, &c.

with, or with any of them, uſed, occupied, or enjoyed, or accepted, reputed, deemed, taken, or known, as part, parcel, or member thereof, and the reverſion and the reverſions, remainder and remainders, yearly and other rents, iſſues, and profits of the ſaid laſt mentioned undivided moiety, or half part of all and ſingular the ſaid manors, meſſuages, lands, tenements, and hereditaments, hereby bargained, ſold, and confirmed unto the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, or intended ſo to be, and all the eſtate, right, title, intereſt, term of years now to come and unexpired, truſt, property, claim, and demand whatſoever, of him the ſaid *W.* earl of ——, of, in, or to the ſame laſt mentioned moiety, and every part thereof, TO HAVE AND TO HOLD the ſaid laſt mentioned undivided moiety or half part of the ſaid manors, meſſuages, lands, tenements, hereditaments, and of all and ſingular other the premiſes hereinbefore bargained, ſold, and aſſigned, or intended ſo to be, with their and every of their appurtenances, unto the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, from henceforth, for and during all the reſt, reſidue, and remainder of the ſaid term of ——, limited by and mentioned in the ſaid recited indenture of the —— day of ——, was to come and unexpired, but nevertheleſs, upon the truſt and ſubject to the proviſo hereinafter mentioned, declared and contained, of and concerning the ſame term. AND THIS INDENTURE LIKEWISE FURTHER WITNESSETH, that in further purſuance of the hereinbefore recited agreement, and in full performance thereof,

MORTGAGE.

unto the ſaid T. S. T.

To hold the ſame for and during the remainder of the ſaid term of — years.

And this indenture likewiſe further witneſſeth, that for, &c.

TERMS.

and for the better ſecuring to the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, of the ſum of ——, reſidue of the ſaid £——, and alſo for and in conſideration of the ſum of ——, of lawful money of *Great Britain*, in hand well and truly paid by the ſaid *T. S. T.* to the ſaid *H. W.* at or before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged: he the ſaid *H. W.* by the direction and appointment of the ſaid *T. W.* and *T. M.* teſtified by their being parties to and executing theſe preſents, hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents doth, by ſuch direction and appointment, teſtified as aforeſaid, bargain, ſell, aſſign, transfer, and ſet over, and the ſaid *T. M.* and *T. W.* have, and each of them hath ratified and confirmed, and by theſe preſents do, and each of them doth ratify and confirm unto the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, all that one other undivided moiety, or equal half part of and in all and every the ſaid manors, meſſuages, lands, tenements, and hereditaments, in the ſaid counties of —— and ——, with their and every of their appurtenances compriſed in the ſaid term of —— years, in and by the ſaid recited indenture of the —— day of ——, created and limited to the ſaid ſir *T. W. T. T. G. E. Y. H.* and *C. R.* as aforeſaid, and of and in all houſes, out-houſes, edifices, buildings, ſhops, cellars, ſollars, ſhambles, ways, entries, paths, paſſages, ponds, ſtreams, flood-gates, wells, waters, water-courſes, woods, underwoods, trees, orchards, gardens, backſides, commons, common of paſture, eaſe-

He the ſaid H. W. hath bargained, &c.

All that, &c.

ments, rights, liberties, profits, commodities, emoluments, privileges, advantages, hereditaments, and appurtenances whatſoever to the ſaid meſſuages, tenements, lands, grounds, hereditaments, and premiſes, or any of them, any part or parcel thereof belonging or in any wife appertaining, or therewith, or with any of them uſed, occupied or enjoyed, or accepted, reputed, deemed, taken, or known as part, parcel, or member thereof, and the reverſion and reverſions, remainder and remainders, yearly and other rents, iſſues, and profits of the ſaid laſt mentioned undivided moiety or half part of all and ſingular the ſaid manors, meſſuages, lands, tenements, and hereditaments, hereby bargained, ſold, and confirmed, unto the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, or intended ſo to be, and all the eſtate, right, title, intereſt, term of years, therein now to come and unexpired, truſt, property, claim, and demand whatſoever, of him the ſaid *H. W.* of, in, or to the ſame laſt mentioned moiety and every part thereof, To HAVE AND TO HOLD the laſt mentioned undivided moiety, or half part of the ſaid manors, meſſuages, lands, tenements, and hereditaments hereinbefore granted, bargained, ſold, aſſigned, and confirmed, or intended ſo be, with their and every of their appurtenances unto the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, from thenceforth for and during all the reſt, reſidue, and remainder of the ſaid term of —— years, limited by and mentioned in the ſaid recited indenture of the —— day of ——, therein now to come and unexpired, but nevertheleſs upon the truſts, and ſubject to the pro-

TERMS.

unto the ſaid T. S. T. to hold for ſaid term of —— years mentioned.

MORTGAGE.

Agreement that the ſaid T. S. T. ſhall ſtand poſſeſſed of the ſaid terms,

viſo hereinafter mentioned, declared, and contained of and concerning the ſame. AND it is hereby declared and agreed, by and between the ſaid parties to theſe preſents, that the ſaid *T. S. T.* his executors, adminiſtrators and aſſigns, ſhall from henceforth ſtand, and be poſſeſſed of the ſaid laſt mentioned moiety or half part of the ſaid manors, meſſuages, lands, tenements, and hereditaments hereinbefore granted, bargained, ſold, aſſigned, and confirmed, or intended ſo to be, with their and every of their appurtenances compriſed in the ſaid terms of —and— years, for the reſidue now to come and unexpired of the ſaid terms of —— and —— years in truſt, as to the ſaid moiety of the ſaid premiſes compriſed in the ſaid term of —— years, in the firſt place for ſecuring to the ſaid *T. M.* and her aſſigns, during her life, the due payment of one moiety or half part of the ſaid yearly ſum or rent charge of £——, agreed to be accepted by her, in lieu of the ſaid yearly ſum of ——, clear of all taxes, charges and deductions aforeſaid, as the ſame moiety of the ſame annual ſum of ——, ſhall become payable, and for that end and purpoſe, in caſe the ſaid moiety of the ſaid annual ſum or yearly rent charge of £———, or any part thereof, ſhall at any time or times be behind or unpaid by the ſpace of —— days next, after any of the feaſts or times whereon the ſame is payable, the ſaid *T. S. T.* his executors, adminiſtrators or aſſigns, do and ſhall from time to time, and at all times then after, by, with, and out of the rents, iſſues, and profits of the ſaid moiety hereby aſſigned to him, of the hereditaments compriſed in

in truſt, as to the premiſes compriſed the ſaid — years term to pay one moiety of the ſaid annuity of ----, and for that purpoſe to receive rents.

Power to ſell

MORTGAGE.

the ſaid term of ——— years, or by mortgage or ſale thereof, or of any part thereof, for all or any part of the ſame term, or by any other ways or means, levy, raiſe, and pay to the ſaid *T. M.* or her aſſigns, all ſuch arrears of the ſaid moiety of the ſaid annual ſum or rent charge of £——, as ſhall from time to time be unpaid and due to her the ſaid *T. M.* or her aſſigns, together with all ſuch coſts, charges, and expences as the ſaid *T. M.* or her aſſigns, ſhall ſuffer, ſuſtain, or be put to, by reaſon or means of the non-payment thereof, and ſubject, and without prejudice, to the ſaid moiety of the ſaid yearly ſum of —— as to the ſaid undivided moiety hereby aſſigned to him the ſaid *T. S. T.* of the ſaid hereditaments and premiſes compriſed in the ſaid term of —— years, and as to the ſaid moiety hereby aſſigned to him the ſaid *T. S. T.* of the ſaid hereditaments and premiſes compriſed in the ſaid term of —— years, in truſt for the better ſecuring unto him the ſaid *T. S. T.* his executors, adminiſtrators or aſſigns, the payment of the ſaid ſum of ———, and ſuch intereſt for the ſame, as is hereinafter mentioned. PROVIDED ALWAYS, and it is hereby declared and agreed, by and between the ſaid parties to theſe preſents, that from and immediately after the deceaſe of the ſaid *T. M.* and after payment to her executors, adminiſtrators or aſſigns, of all arrears of the ſaid moiety, of the ſaid yearly ſum of —— that ſhall be due at the time of her death, and of all coſts, charges and expences, that ſhall be occaſioned by the non-payment of the ſaid laſt men-

Power to ſell.

Then in truſt for the better ſecuring unto the ſaid T. S. T. the ſaid ſum of, &c.

Proviſo that after the death of the ſaid T. M. and payment of arrears of the ſaid moiety of the annuity.

MORTGAGE.

tioned moiety of the ſaid yearly ſum or rent-charge of £——, or any part thereof, and of the ſaid *W. T.* his heirs, executors, adminiſtrators, or aſſigns, or the perſon or perſons who ſhall be entitled to the freehold or inheritance of the ſaid laſt mentioned moiety of the ſaid premiſes, expectant on the reſpective determinations of the ſaid ſeveral terms of —— and —— years, do and ſhall well and truly, pay, or cauſe to be paid unto the ſaid *T. S. T.* his executors, adminiſtrators, or aſſigns, the ſaid ſum of —— in lawful money of *Great Britain*, with intereſt for the ſame, at the rate of £— for a £—— for a year, on the —day of ——, next enſuing the date of theſe preſents, at, or in the common dining hall of ——, in the county of ——, without making any deduction or abatement thereout, or out of any part thereof, for, or on account of any taxes, charges, rates, aſſeſſments, or impoſitions, ordinary or extraordinary, already taxed, charged, aſſeſſed, or impoſed, at any time or times, or hereafter to be taxed, charged, aſſeſſed, or impoſed upon the ſaid moiety hereby aſſigned to the ſaid *T. S. T.* of the ſaid manors, meſſuages, lands, tenements, and hereditaments, or any of them, or any part thereof, or the tenants or occupiers of the ſame, or upon the ſaid principal ſum of ——, and ——, or the intereſt thereof, or any part thereof, reſpectively or upon the ſaid *T. S. T.* his executors, adminiſtrators, or aſſigns, in reſpect of the ſame, by authority of parliament, or otherwiſe, howſoever, then and upon ſuch payment the ſaid *T. S. T.* his heirs, executors, adminiſtrators, or aſſigns, ſhall and will by ſuch aſſignment and aſ-

do and ſhall pay to the ſaid T. S. T. the ſaid ſum of, &c.

Upon payment to aſſigns.

ſurances in the law as ſhall be reaſonable in that behalf, at the requeſt, coſts, and charges of the ſaid *W. T.* or his heirs, or of the perſon or perſons who ſhall be next entitled to the freehold or inheritance of the premiſes compriſed in the ſaid ſeveral terms of —— and ——years, immediately expectant on the determination of the ſame terms reſpectively, well and effectually aſſign and aſſure the ſaid moiety hereinbefore aſſigned to the ſaid *T. S. T* of all and ſingular the ſaid hereditaments, and premiſes, and every part, and parcel thereof, with the appurtenances thereto belonging unto ſuch perſon or perſons as he the ſaid *T. W.* or the perſon or perſons who ſhall be next intitled to the freehold or inheritance of the ſame premiſes expectant as aforeſaid, ſhall direct or appoint for all the then reſidue of the ſaid ſeveral terms of —— years, and —— years, freed, and abſolutely diſcharged of and from all charges and incumbrances whatſoever, to be had, made, done, or created by him the ſaid *T. S. T.* his executors, adminiſtrators, or aſſigns, or any of them, and the ſaid *W.* earl of ——, for himſelf, his executors and adminiſtrators, doth hereby covenant, promiſe to and with the ſaid *T. S. T.* his executors, adminiſtrators, and aſſigns, in manner following, that is to ſay, that the ſaid *W.* earl of ——, hath not at any time heretofore done, executed, committed, or willingly or wittingly permitted, or ſuffered any act, deed, matter, or thing whatſoever, whereby the ſaid hereinbefore aſſignment to the ſaid *T. S. T.* of the ſaid premiſes in the ſaid

MORTGAGE.

Covenant from W. earl of —— that he hath not incumbered.

MORTGAGE.

counties of ——, and ——, ſo limited, to the ſaid *Y. H.* and *I. K.* for the term of ——, years, or any part thereof, or the ſaid term of —years, therein, or any part thereof are, is, can or ſhall, or may be impeached, charged or incumbered in title, charge, eſtate, or otherwiſe, howſoever, and the ſaid *H.W.* for himſelf, his executors and adminiſtrators, doth hereby covenant, promiſe and agree to, and with the ſaid *T. S. T.* his executors, adminiſtrators and aſſigns, that he the ſaid *H. W.* hath not at any time hereafter done, executed, committed, or wittingly or willingly permitted or ſuffered any act, deed, matter, or thing whatſoever, whereby the ſaid moiety therein before aſſigned to the ſaid *T. S. T.* of the premiſes ſo limited to the ſaid *T. W. I. T. G. E. Y. H.* and *I. K.* for the term of —— years, or any part thereof, or the ſaid term of —— years therein, or any part thereof, are, is, can, ſhall, or may be impeached, charged or incumbered in the title, charge, eſtate, or otherwiſe, howſoever; and the ſaid *I. W.* for himſelf, his heirs, executors, adminiſtrators and aſſigns, doth hereby covenant, promiſe, and agree to, and with the ſaid *W. H.* and *T. S. T.* and their ſeveral and reſpective executors, adminiſtrators and aſſigns, by theſe preſents in manner following, that is to ſay, that the ſaid ſeveral terms of —— years, and —— years, are at the time of the ſealing and delivery of theſe preſents reſpectively, good, valid, and ſubſiſting terms, and eſtates in the law, and are not by any means impeached, charged, affected, or incumbered, ſurrendered, forfeited, mortgaged or otherwiſe become void, or voidable, and that

Covenant, that terms are valid and not incumbered.

the ſaid *W.* earl of ——, now hath good right, full power, and lawful, and abſolute authority to bargain, ſell, and aſſign the ſaid ſeveral moieties, and hereditaments hereinbefore reſpectively aſſigned, or intended ſo to be, and every of them, and every part and parcel thereof, with the appurtenances thereto, reſpectively belonging unto the ſaid *W. H.* and *T. S. T.* and their reſpective executors, adminiſtrators, and aſſigns, for and during the reſidue and remainder of the ſaid term of —— years therein now to come and unexpired, upon the truſts, and in manner aforeſaid, and according to the true intent and meaning of theſe preſents, and alſo, that the ſaid *H. W.* now hath good right, full power and lawful and abſolute authority to bargain, ſell, and aſſign the ſeveral moieties and hereditaments hereinbefore reſpectively aſſigned or intended ſo to be, and every of them, and every part and parcel thereof, with the appurtenances thereto reſpectively belonging unto the ſaid *W. H.* and *T. S. T.* their reſpective executors, adminiſtrators and aſſigns, for and during all the reſidue and remainder of the ſaid term of —— years therein now to come, and unexpired upon the truſt and in manner aforeſaid, and according to the true intent and meaning of theſe preſents: and further, that if default ſhall happen to be made of, or in payment of the ſaid ſum of £.—— and ——, or the intereſt thereof, or of any part thereof, reſpectively, or of the ſaid ſum of —— and ——, or the intereſt thereof, or of any part thereof reſpectively, at the time and place limited and appointed for payment thereof, contrary to the ſaid proviſos and covenants for that purpoſe herein-

MORTGAGE.

In caſe of default in payment.

MORTGAGE.

Free from incumbrance.

before contained, and the true intent and meaning of theſe preſents, then and in that caſe, and from thenceforth it ſhall and may be lawful, to and for the ſaid *W. H.* and *T. S. T.* reſpectively, and their reſpective executors, adminiſtrators and aſſigns, peaceably and quietly to enter into, and upon, and to have, hold, occupy, poſſeſs, and enjoy the ſeveral and reſpective moieties hereinbefore reſpectively aſſigned to the ſaid *W. H.* and *T. S. T.* of all and ſingular, the hereditaments and premiſes, and every part and parcel thereof, with their and every of their rights, members, and appurtenances, and the rents, iſſues and profits thereof, and of every part thereof, to receive and take to their own reſpective uſe and behalf, but nevertheleſs, upon the truſts and for the intents and purpoſes aforeſaid, without the lawful let, ſuit, trouble, eviction, ejection, interruption, claim or demand of him the ſaid *T. W.* his heirs, or aſſigns, or of any other perſon or perſons whomſoever, and that free and clear, and freely and clearly and abſolutely acquitted, exonerated and diſcharged, or otherwiſe by the ſaid *T. W.* his heirs, executors, adminiſtrators, and aſſigns, well and ſufficiently ſaved, defended, kept harmleſs, and indemnified, of, from, and againſt all, and all manner of former and other gifts, grants, bargains, ſales, conveyances, mortgages, leaſes, uſes, truſts, wills, intails, jointures, powers, right and title of power, ſtatute merchants, and of ſtaple judgment, extents, executions, recognizances, annuities, legacies, ſum and ſums of money, yearly payments, for future reentries, cauſe and cauſes of action, forfeiture and

re-entry, debts of record, debts due to the king's majeſty, and of, and from, and againſt all other titles, troubles, charges and incumbrances already had, made, done, committed, executed, or ſuffered, or hereafter to be had, done, committed, executed, or ſuffered by the ſaid *T. W.* or by any other perſon or perſons whomſoever, other, than, and except the ſaid term of — years, in and by the ſaid recited indenture of releaſe, of the —— day of ——, limited to the ſaid *M. V.* and *H. K.* their executors, adminiſtrators, and aſſigns as aforeſaid, for the purpoſes hereinbefore mentioned, and alſo, except the ſaid annuity or yearly rent charge of £.—— by the ſame laſt mentioned indenture, limited to the ſaid *T. M.* for her life as aforeſaid, and further, that in caſe default ſhall be made of, or in payment of the ſaid ſum of ——, or the intereſt thereof, or of the ſaid ſum of ——, or the intereſt thereof, or any part thereof reſpectively, contrary to the ſeveral proviſos, or conditions for redemption hereinbefore contained, and the true intent and meaning of theſe preſents, he the ſaid *T. W.* his heirs and aſſigns, and all and every other perſon and perſons whomſoever, having or lawfully claiming any eſtate, right, title, or intereſt, of the ſaid ſeveral moieties, into or out of the ſaid manors, hereditaments and premiſes hereby reſpectively aſſigned, ratified and confirmed, or intended ſo to be, or any of them, or any part or parcel thereof, from, by, or under, or in truſt for him the ſaid *T. W.* or any other perſon or perſons whomſoever, ſhall and will from time to time, and at all times, from and after ſuch de-

MORTGAGE.

Further aſſurance in caſe of default in payment.

MORTGAGE. fault ſhall be made as aforeſaid, upon the reaſonable requeſt of the ſaid *W. H.* and *T. S. T.* or either of them, or the executors, adminiſtrators and aſſigns, make, do, and execute, or cauſe, or procure to be made, done, all and every ſuch further and other lawful and reaſonable act and acts, deed and deed, thing and things, aſſignments and aſſurances in the law whatſoever, for the further, better, and more ſure, and abſolute aſſigning and aſſuring the ſaid moieties of the aforeſaid manors, hereditaments, and premiſes hereinbefore reſpectively aſſigned to the ſaid *W. H.* and *T. S. T.* with their and every of their appurtenances, unto the ſaid *W. H.* and *T. S. T.* their reſpective executors, adminiſtrators, and aſſigns, for and during all the reſidue and remainder of the ſaid ſeveral terms of —— years, and —— years, which ſhall be therein then to come and unexpired, freed, and abſolutely diſcharged, of, and from the ſaid proviſos or conditions of redemption hereinbefore contained; and alſo, other right, title and equity of redemption whatſoever, but nevertheleſs, upon truſt, and for the intents and purpoſes aforeſaid, as by the ſaid *W. H.* and *T. S. T.* or either of them, their, or either of their executors, adminiſtrators, or aſſigns, or their, or any, or either of their counſel learned in the law, ſhall be reaſonably deviſed, or adviſed, and required. IN WITNESS, &c.

MORTGAGE.

Transfer of the preceding Mortgage by Indorſement.

To all to whom theſe preſents ſhall come, the within named *T. S. T.* ſends greeting: Whereas the within mentioned ſum of —, was not paid to the ſaid *T. S. T.* at the day and time in the laſt proviſo in the within indenture limited, and appointed for payment of the ſame, whereby the eſtate of the ſaid *T. S. T.* of, and in the within mentioned undivided moiety, or half part, in and by the within indenture aſſigned to him, of, and in the within mentioned manors, meſſuages, lands, tenements, and hereditaments in the counties of —, and—, compriſed in the within mentioned ſeveral terms of —— years, and —— years, became abſolute at law, for the reſidue of the ſame ſeveral terms, and the ſame principal ſum ſtill remains due, and owing to him the ſaid *T. S. T.* by virtue of the within mentioned ſecurity, but all intereſt named, due for the ſame, hath been paid to the day of the date of theſe preſents: And whereas, the within named *T. M.* departed this life ſince the date and execution of the within indenture; now theſe preſents witneſs, that for and in conſideration of the ſum of £.———, of lawful money of *Great Britain*, to the ſaid *T. S. T.* in hand well and truly paid by *D. T.* of ——, in the county of ——, gentleman, at or before the ſealing and delivery of theſe preſents, the receipt of which ſaid ſum of £.———, he the ſaid *T. S. T.* doth hereby acknowledge, and thereof, and from the ſame, and every part thereof, doth acquit, releaſe, and diſcharge the ſaid *D. T.* his

Recital, that the mortgage money was not paid purſuant to the other proviſo.

Thereby the eſtate became abſolute in the mortgagee

MORTGAGE. executors, adminiſtrators, and aſſigns, and by theſe preſents he the ſaid *T. S. T.* hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents, doth bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *D. T.* all the within mentioned principal ſum of £.——, by the within indenture, or expreſſed, or intended ſo to be, and all intereſt to grow due for the ſame, and the benefit of all ſecurities for the ſame principal money and intereſt, and all the right, title, intereſt, property claim, and demand whatſoever, both at law and in equity of him the ſaid *T. S. T.* of, into, or out of the ſame, and every part thereof reſpectively, To have, hold, receive, take, and enjoy the ſaid principal ſum of £.——, and the intereſts thereof, and all, and ſingular, other, the premiſes hereinbefore aſſigned, or mentioned, or intended ſo to be, unto, and by the ſaid *D. T.* his executors, adminiſtrators and aſſigns, as and for his, and their own proper monies and effects, and to and for his, and their own abſolute uſe and benefit. AND theſe preſents further witneſſeth, that for the conſideration hereinbefore mentioned, and alſo for and in conſideration of the further ſum of —, of like lawful money, to the ſaid *T. S. T.* in hand likewiſe paid by the ſaid *D. T.* at or before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, he, the ſaid *T. S. T.* hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *D. T.* his executors, adminiſtrators, and aſſigns, all the within mentioned undivided moiety or equal half-part, in

Further witneſs. Like aſſignment of the mortgaged premiſes.

and by the within indenture bargained, ſold, and aſſigned, or expreſſed, or intended to be bargained, ſold, and aſſigned unto him, the ſaid *T. S. T.* of and in all and every the manors, meſſuages, lands, tenements and hereditaments, in the ſeveral counties of —, and —, compriſed in the within mentioned ſeveral terms of —— years, and —— years, of, and in all and ſingular the rights, royalties, members, and appurtenances to the ſame belonging, and all the eſtate, right, title, intereſt, term, and terms of years to come and unexpired, truſt, property, claim, and demand whatſoever, both at law and in equity, of him, the ſaid *T. S. T.* of, into, or out of the ſame moiety or half-part of and in the ſame manors, meſſuages, lands, tenements, hereditaments, and premiſes, and every part and parcel thereof, To have and to hold the ſaid moiety or half, of and in the ſaid manors, meſſuages, lands, tenements, and all and ſingular other the premiſes laſt hereinbefore mentioned and bargained, ſold, and aſſigned, or expreſſed, or intended ſo to be, with the appurtenances to the ſame belonging, unto the ſaid *D. T.* his executors, adminiſtrators, and aſſigns, from henceforth for and during all the reſt, reſidue, and remainder of the ſaid ſeveral terms of —— years, and —— years, therein yet to come and unexpired, but ſubject nevertheleſs to ſuch right or equity of redemption, as is ſubſiſting, of and in the ſame moiety of the ſame manors, meſſuages, lands, tenements, hereditaments, and premiſes under or by virtue of the within indenture; and the ſaid *T. S. T.* doth hereby, for himſelf, his heirs, executors, and ad-

MORTGAGE.

To hold to the mortgage ſubject to redemption.

Covenant that former mortgage be not encumbered.

MORTGAGE. miniſtrators, covenant, promiſe, and agree to and with the ſaid *D. T.* his executors, adminiſtrators, and aſſigns, that he, the ſaid *T. S. T.* hath not, at any time heretofore, made, done, committed, or executed, or willingly or knowingly ſuffered, any act, deed, matter, or thing whatſoever, whereby or by reaſon or means whereof the ſaid moiety or half-part of and in the ſaid manors, meſſuages, lands, tenements, hereditaments, and premiſes hereinbefore bargained, ſold, aſſigned, or mentioned, or intended ſo to be, or the now reſidue of the ſaid ſeveral terms of —— years, and —— years, therein or any part thereof reſpectively, are, is, can, ſhall, or may be, impeached, charged, aſſigned, ſurrendered, forfeited, or incumbered in title, charge, eſtate, or otherwiſe howſoever. In witneſs, &c.

Aſſignment, &c. of a Manor by the Owner and his Truſtees, for ſecuring a Sum and Intereſt, and alſo of Money charged on Eſtates, &c. &c. &c.

THIS indenture of ſeven parts, made, &c. BETWEEN *I. W.* of ——, in the county of ——, eſq. and *H. S.* of ——, in the pariſh of —, &c. gent. executors of the laſt will and teſtament of *T. E.* late of —, in the county of ——, deceaſed, of the firſt part, *W. A.* of — &c. gent. and *R. O.* of — &c. of the ſecond part, *P. R.* of — &c. eſq.

ſole executor of the laſt will and teſtament of *P. R.* late of — &c. eſq. deceaſed, of the third part, the right hon. *M. I.* eſq. commonly called, lord viſcount —, of the fourth part, the hon. *M. G. I.* the eldeſt ſon of the ſaid *T.* Lord Viſcount —, of the fifth part, *B. A.* of — &c. of the ſixth part, and *D. C.* of — &c. a truſtee, nominated in behalf of the ſaid *B. A.* of the ſeventh part. Whereas, [*Recital of a Will deviſing certain Portions and Legacies. Recital of an Act of Parliament for veſting certain Eſtates of the Deviſer in Truſtees to be ſold. Indentures of Leaſe and Releaſe, being a Marriage Settlement between the Earl of —, and D. A. Indentures of Leaſe and Releaſe for carrying into Effect the Purpoſes of the ſaid Settlement, and in veſting part of Lady H.'s Portion in the Purchaſe of Lands, and Proceedings in Chancery for completing the Sale. Indenture of Bargain and Sale inrolled, for making Tenant to præcipe, to ſuffer Recovery. Recital of Indentures of Leaſe and Releaſe for making further Purchaſe, to be limited to ſuch Truſts as ſaid Stock was appointed. Indentures of Leaſe and Releaſe, being a Marriage Settlement of Lord Viſcount —, with Lady —, only Daughter of the ſaid Earl of —, by —, Counteſs of —; reciting that Lady —, on her Marriage, would be intitled to £——, and to £——, charged upon divers Eſtates: and a Term for ſecuring ſaid Sum of ——; Transfer of ſaid Sum to Truſtees in Truſt among other things; and ſubject to a Proviſo for enabling the ſaid Viſcount — to diſpoſe of —l. in caſe he left a Son who ſhould attain the Age of 21. Indenture of Leaſe and Releaſe to make a Tenant to the Præcipe. Indenture of Leaſe and Releaſe for*

MORTGAGE.

Statement of recitals.

MORTGAGE. *further Settlement. Indenture for executing Lord — Power of appointing ſaid —l. Death of* P. R. *Indentures of Leaſe and Releaſe to make a Tenant to the Præcipe, for ſuffering two Recoveries to the Uſe of W. A. and R. O. in truſt to Sell or Mortgage.*]

Contract recited for borrowing a ſum of money.

AND WHEREAS, the ſaid *I.* lord viſcount —, hath applied to the ſaid *B. A.* for the loan of £——, in part and on account of the ſaid ſum of ——, hereinbefore mentioned, which he, the ſaid *B. A.* hath conſented and agreed to advance accordingly, on having the repayment thereof ſecured in manner hereinafter mentioned; and thereupon the ſaid *I.* lord viſcount —, had applied to the ſaid — and — *M. G. I. W. A.* and *R. O.* reſpectively to join with him in ſuch ſecurity, and in ſuch manner as hereinafter is expreſſed and contained, which they, the ſaid — and —, *M. G. I. W. A.* and *R. O.* had conſented and agreed to do: Now this indenture witneſſeth, that in purſuance of the ſaid agreement, and for and in conſideration of the ſaid ſum of ——, of lawful money of Great Britain, to the ſaid *I.* lord viſcount —, in hand, well and truly paid by the ſaid *B. A.* ——, at or before the ſealing and delivery of theſe preſents, the receipt and payment whereof the ſaid *I.* lord viſcount —, doth hereby acknowledge, and thereof, and of, and from every part thereof, doth acquit, releaſe, and for ever diſcharge the ſaid *B. A.* his heirs, executors, adminiſtrators, and every of them by theſe preſents, and alſo for and in conſideration of —, of like lawful money, to each of them, the ſaid *I. W.* and *H. S. M. G. I. W. A.* and *R. O.* in hand,

Now this Indenture witneſſeth.

Conſideration,

well and truly paid by the ſaid *B. A.* the receipt whereof is alſo hereby acknowledged, they, the ſaid *I. W.* and *H. S.* at the requeſt and by the direction of the ſaid *I.* lord viſcount —, *M. G. I. W. A.* and *R. O.* teſtified by their being reſpectively made parties to, and executing theſe preſents, have, and each of them hath, bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents, do, and each of them doth, (at ſuch requeſt and direction, teſtified as aforeſaid) bargain, ſell, aſſign, transfer, and ſet over, and the ſaid *I.* lord viſcount —, *M. G. I. W. A.* and *R. O.*) as far as they reſpectively, lawfully can or may, have, and each of them hath, bargained, ſold, aſſigned, ratified and confirmed, and by theſe preſents do, and each of them doth, (in like manner as far as they reſpectively lawfully can or may) bargain, ſell, aſſign, ratify, and confirm unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, all that the ſaid manor, or lordſhip of —, in the ſaid county of ——, with all the rights, royalties, members, and appurtenances of the ſame, and alſo all that capital meſſuage, or chief manor houſe, or ſcite, of the ſaid manor of—, ſituate and being in —, aforeſaid, and alſo all and ſingular the ſaid meſſuages in truſt, lands, hereditaments, and premiſes, herein before particularly deſcribed, and which in and by ſaid recited indenture of leaſe and releaſe of the — and — day of ——, &c. were thereby granted to the ſaid *C. O.* and *D. T.* their executors, adminiſtrators, and aſſigns, for a term of —— years, and which are compriſed in the ſaid term of —— years, under and by virtue of the

MORTGAGE.

Transfer by truſtees and lord H. &c.

MORTGAGE.

ſaid recited indentures of leaſe and releaſe of — and — of ——, &c. and the ſaid recited indentures of leaſe and releaſe of the — and — days of ——, &c. or any or either of them, and all the eſtate, right, title, intereſt, term, and number of years therein yet to come, and unexpired property, claim, and demand whatſoever, of them, the ſaid *C. W. H. S. I.* lord viſcount — *M. G. I. W. A.* and *R. O.* or either of them, of, into, or out of the ſaid manor and premiſes, hereby aſſigned, or mentioned or intended ſo to be, and every part and parcel thereof, under and by virtue of the ſaid hereinbefore recited indentures, or otherwiſe howſoever: To have and to hold the ſaid manor or lordſhip, capital meſſuages, or manor-houſe, and all and ſingular other the premiſes hereinbefore aſſigned or mentioned, and intended ſo to be, with their and every of their rights, members, and appurtenances, unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, from thenceforth for and during all the reſt, reſidue, and remainder of the ſaid term of —— years, limited and created in and by the ſaid recited indenture of releaſe of the — day of ——, &c. and the — and — days of ——, &c. now to come and unexpired, ſubject nevertheleſs to the proviſo or condition for redemption thereof, hereinafter expreſſed and declared. AND this indenture further witneſſeth, that for the conſideration aforeſaid, and for the better and more effectual ſecuring to the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, the repayment of the ſaid ſum of ——, with intereſt for the ſame, after the rate, and at the time herein ſpecified for payment there-

To hold the ſame for the reſidue of ſaid term of — years.

And this Indenture further witneſſeth.

of, and alſo for and in conſideration of the further ſum of 10s. of like lawful money of *Great Britain*, to each of them the ſaid *W. A.* and *R. O.* *I.* lord viſcount ——, and *M. G. I.* in hand well and truly paid by the ſaid *B. A.* at or before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, they the ſaid *W. A.* and *R. O.* (at the requeſt and by the direction and appointment of the ſaid *I.* lord viſcount ——, and *M. G. I.* teſtified by their being ſeverally parties to and executing theſe preſents,) have, and each of them hath granted, bargained, ſold, and demiſed, and by theſe preſents do, and each of them doth (at ſuch requeſt, direction, and appointment, teſtified as aforeſaid) grant, bargain, ſell and demiſe, and the ſaid *I.* lord viſcount ——, and *M. G. I.* according to their reſpective eſtates and intereſts, and as far as they reſpectively lawfully can or may have, and each of them hath granted, appointed, ratified, and confirmed, and by theſe preſents according to ſuch their reſpective eſtates and intereſts, and as far as they reſpectively lawfully can or may do, and each of them doth grant, appoint, ratify, and confirm unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, all that the ſaid manor or lordſhip of ——, in the ſaid county of ——, with all the rights, royalties, members, and appurtenances of the ſame, and alſo all that capital meſſuage or chief manor-houſe or ſcite of the ſaid manor of ——, ſituate and being in ——, aforeſaid, and alſo all and ſingular the ſaid meſſuages or tenements, lands, hereditaments, and premiſes hereinbefore particularly

MORTGAGE.

Transfer by truſtees, &c.

MORTGAGE. deſcribed, and in the recited indentures of leaſe and releaſe, of the — and — days of ——, granted and demiſed, and which are compriſed in the ſaid term of —— years, under and by virtue of the ſaid recited indentures of the — and — days of ——, and the ſaid recited indentures of leaſe and releaſe, of the — and — days of ——, or either of them, and all houſes, outhouſes, edifices, buildings, General words barns, ſtables, orchards, gardens, lands, meadows, paſtures, feedings, parks, commons, underwoods, rents, reverſions, ſervices, waters, fiſhings, furzes, heaths, moors, marſhes, ways, and grounds, eſcheats, reliefs, heriots, courts, profits of courts, courts-leet, courts-baron, view of frank-pledge, and all that to the ſaid courts and view of frank-pledge doth appertain, goods and chattels, waifs and ſtrays, goods and chattels of felons, fugitives, outlawed perſons and felons of themſelves, deodands, fines, amerciaments, liberties, privileges, franchiſes, juriſdictions, emoluments, hereditaments, profits, commodities, advantages, and appurtenances whatſoever to the ſaid manors or lordſhips, and premiſes belonging, or in anywiſe appertaining or accepted, reputed, taken, or known as part, parcel, or member of the ſame, or any part thereof, and alſo all the eſtate, right, title, intereſt, inheritance, uſe, truſt, property, claim, and demand whatſoever, both at law and in equity of them the ſaid *W. A. R. O. I.* lord viſcount —, and *M. G. I.* or any of them, of, into, or out of the ſaid manor or lordſhip, hereditaments and premiſes hereby demiſed or mentioned, and intended ſo to be, or any of them, or any part thereof, together

with all deeds, evidences, and writings which concern the ſaid manor and premiſes only, or any part thereof, which they the ſaid *W. A. R. O. I.* lord viſcount —, *M. G. I.* or either of them, now have in their cuſtody or power, or can come by, without ſuit at law, or in equity, and true copies of all ſuch other deeds, evidences and writings, as concern the ſame premiſes, jointly with any other manor, lands, hereditaments, and premiſes, which they the ſaid *W. R. R. O. I.* lord viſcount —, and *M. G. I.* or either of them, have in their cuſtody or power, or can come by, without ſuit at law, or in equity, ſuch copies to be taken at the coſts and charges of the ſaid *I.* lord viſcount —. To have and to hold the ſaid manor or lordſhip, lands, hereditaments, and premiſes hereinbefore mentioned, and intended to be hereby granted and demiſed, with their and every of their rights, members, and appurtenances unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, from thenceforth, for and during, and unto the full end and term of —— years, now next enſuing, and fully to be complete and ended, ſubject nevertheleſs to ſuch proviſo for redemption of the ſaid premiſes as hereinafter is contained, (that is to ſay). PROVIDED ALWAYS, and it is hereby declared and agreed, by and between the ſaid parties to theſe preſents, that if the ſaid *I.* lord viſcount —, his heirs, executors, or adminiſtrators, ſhall and do, at, or in the common dining hall of ——, in the county of ——, well and truly pay, or cauſe to be paid unto the ſaid *B. A.* his executors, adminiſtrators, or aſſigns, the ſaid principal ſum of —— of lawful money

MORTGAGE.

To hold for the reſidue of ſaid term.

Proviſo for redemption.

MORTGAGE. of *Great Britain*, with intereſt for the ſame, after the rate of £— for each £——, by the year, on the —— day of ——, next enſuing the date of theſe preſents, without any deduction or abatement out of the ſame, or any part thereof, for or in reſpect of any taxes, aſſeſſments or impoſitions, taxed, charged, aſſeſſed, or impoſed, or to be taxed, charged, aſſeſſed, or impoſed upon the ſaid premiſes, hereby aſſigned, granted, and demiſed reſpectively, or mentioned and intended ſo to be, or upon the ſaid principal ſum of ——, and the intereſt thereof, hereby ſecured, or any part thereof, reſpectively, or upon the ſaid *B. A.* his executors, adminiſtrators, or aſſigns, in reſpect thereof, by any preſent or ſubſequent act of parliament, or otherwiſe howſoever, that then and in ſuch caſe, from, and immediately after ſuch payment ſhall be ſo made as aforeſaid, he the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, ſhall and will re-aſſign the ſaid manor or lordſhip, meſſuages or tenements, lands, hereditaments and premiſes, for and during all the then reſidue of the ſaid ſeveral terms of —— and —— years, unto the ſaid *I.* lord viſcount ——, his executors, adminiſtrators and aſſigns, or to ſuch perſon or perſons as he or they ſhall direct or appoint. AND this indenture further witneſſeth, that for the better and more effectual ſecuring the re-payment of the ſaid ſum of ——, and the intereſt thereof unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, purſuant to the true intent and meaning of the proviſo hereinbefore mentioned, and the covenant hereinafter contained, and of theſe preſents, and for and in

And this indenture further witneſſeth, that for more effectually ſecuring the ſaid ſum &c.

consideration of 10s. of like lawful money of *Great Britain*, to the said *P. R. I.* lord viscount ——, and *M. G. I.* in hand well and truly paid by the said *D. G.* at or before the sealing and delivery of these presents, (the receipt whereof is hereby acknowledged, he the said *P. R.* at the request and by the direction of the said *I.* lord viscount ——, and *M. G. I.* and at the nomination and appointment of the said *A. B.* testified by their being severally parties to, and executing these presents, hath granted, bargained, sold, assigned, transferred and set over, and by these presents, doth (at the like request and direction, nomination and appointment testified as aforesaid,) grant, bargain, sell, assign, transfer and set over, and the said *I.* lord viscount —, and *M. G. I.* have, and each of them hath, (according to their several and respective estates, rights, and interests, and as far as they respectively lawfully can or may) hath bargained, sold, assigned, ratified, and confirmed, and by these presents, do, and each of them doth, (according to such their respective estates and interests, and as far as they lawfully can or may) bargain, sell, assign, ratify and confirm unto the said *D. C.* his executors, administrators, and assigns, the said sum of —— so directed and appointed, to the said *P. R.* under, and by virtue of the said recited indenture of the —— day of ——, and all the estate, right, title, interest, property, claim, and demand whatsoever, of them the said *P. R. I.* lord viscount ——, and *M. G. I.* or any or either of them, under, or by virtue of the said recited indentures, or any or either of them, or otherwise howsoever, of, in, and to the same, or any part and parcel thereof.

MORTGAGE.

Said parties assign the said sum of —.

Habendum.

MORTGAGE. To have, hold, receive, take, and enjoy the ſaid ſum of ———, and the intereſt thereof, from thenceforth to grow due and payable, and every part thereof, unto the ſaid *D. C.* his executors, adminiſtrators, and aſſigns, upon the truſts, and for the intents and purpoſes hereinafter declared and expreſſed, of and concerning the ſame; (that is to ſay) in truſt in the firſt place for better ſecuring the payment of the ſaid ſum of ——, and the intereſt for the ſame, purſuant to the proviſo hereinbefore contained, and from and after the payment thereof, and in the mean time ſubject thereto, in truſt for the ſaid *I.* lord viſcount ——, his executors, adminiſtrators, and aſſigns, and from and after payment thereof, as aforeſaid, to be aſſigned and diſpoſed of, as he or they ſhall direct or appoint. AND the ſaid *C. W.* for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree, to and with the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, by theſe preſents, that he the ſaid *C. W.* hath not at any time heretofore, made, done, committed, or willingly ſuffered to be made, done, or committed, any act, matter, or thing whatſoever, whereby or by means whereof the ſaid manor and premiſes compriſed in the ſaid term of ——— years, and hereby aſſigned, or intended ſo to be, or any part thereof, is, are, or can, or may be impeached, charged, or incumbered in title, charge, eſtate or otherwiſe howſoever, or the ſaid term of ——years hereby aſſigned, forfeited, and mortgaged, vacated, or determined. And the ſaid *W. A.* and *R. Q.* for themſelves, ſeverally and reſpectively, and for their reſpective heirs, executors, and adminiſtrators, do

Upon truſts after mentioned.

Covenant by *H. C.* that he has done no act to incumber.

Covenant to ſame effect by *W. A.* and *O. R.*

covenant, promiſe, and agree, to and with the ſaid *B. A.* his executors, adminiſtrators and aſſigns, by theſe preſents, that they the ſaid *W. A.* and *R. O.* have not, nor hath either of them, at any time heretofore, made, done, or committed, or willingly ſuffered to be made, done, or committed, any act, matter, or thing whatſoever, whereby or by means whereof the ſaid manors or lordſhips, and premiſes hereby demiſed, or mentioned, or intended ſo to be, or any part thereof, is, are, can, or may be impeached, charged, or incumbered in title, charge, eſtate, or otherwiſe howſoever. And the ſaid *M. G. I.* for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree to and with the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, by theſe preſents, that he the ſaid *M. G. I.* hath not at any time heretofore made, done, committed, or willingly ſuffered to be made, done, or committed, any act, matter, or thing whatſoever, whereby, or by means whereof the ſaid manor or lordſhip and premiſes hereby aſſigned and demiſed, or mentioned or intended ſo to be, or any part thereof, is, are, can, or may be impeached, charged, or incumbered in title, charge, or eſtate, or otherwiſe howſoever. And the ſaid *P. R.* doth hereby for himſelf, his executors and adminiſtrators, covenant, promiſe, and agree, to and with the ſaid *D. C.* his executors, adminiſtrators, and aſſigns, that he the ſaid *R. P.* hath not at any time heretofore made, done, or committed, or ſuffered to be made done or committed, any act, matter, or thing whatſoever, whereby, or by means whereof, the ſaid ſum of ——, hereby

MORTGAGE.

Like covenant from another party.

Like covenant.

MORTGAGE.

Covenant from lord viſcount — that he hath done no act to incumber ſaid land or mortgage.

For re-payment of ſaid ſum of —.

aſſigned, or mentioned or intended ſo to be, or any part thereof, is, are, can, or may be impeached, charged, or incumbered in title, charge, eſtate, or otherwiſe howſoever. And the ſaid *I.* lord viſcount ——, for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree, to and with the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, by theſe preſents, in manner and form following, that is to ſay, that he the ſaid *I.* lord viſcount ——, hath not at any time heretofore made, done, committed, or ſuffered to be made, done, or committed, any act, matter or thing whatſoever, whereby, or by means whereof, the ſaid manor or lordſhip, and premiſes hereby aſſigned and demiſed reſpectively, or the ſaid ſum of —— hereby aſſigned, or either of them, or any part thereof, is, are, can, or may be impeached, charged, or incumbered in title, charge, eſtate, or otherwiſe howſoever, (ſave and except as appears in theſe preſents). And alſo that he the ſaid *I.* lord viſcount —, his heirs, executors, or adminiſtrators, or ſome of them, ſhall and will well and truly pay, or cauſe to be paid unto the ſaid *B. A.* his executors, adminiſtrators and aſſigns, the ſaid ſum of ——, and intereſt for the ſame, after the rate, at the time, and in the manner in the proviſo herein before mentioned, and appointed for payment thereof, without any deduction or abatement to be made thereout, or in reſpect thereof as aforeſaid, and according to the true intent and meaning of theſe preſents. And alſo that they the ſaid *C. W. S. H. A. W. R. O. P. R. I.* lord viſcount ——, and *M. G. I.*

MORTGAGE.

or ſome of them, have in themſelves, or one of them hath in himſelf, good right, full power, and lawful and abſolute authority to aſſign and demiſe the ſaid manor or lordſhip, lands, hereditaments and premiſes hereinbefore reſpectively aſſigned and demiſed, with their and every of their rights, members, and appurtenances, unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, for the reſidue of the ſaid term of —— years, and for and during the ſaid term of —— years, and alſo to aſſign, transfer, and ſet over, the ſaid ſum of ——— unto the ſaid *D. C.* his executors, adminiſtrators, and aſſigns, in manner and form aforeſaid, according to the true intent and meaning of theſe preſents. AND ALSO, that if default ſhall be made in the payment of the ſaid ſum of ——, and the intereſt thereof, or any part thereof, at the time hereinbefore mentioned and appointed for payment thereof, that then and from thenceforth it ſhall and may be lawful, to and for the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, peaceably and quietly to enter into, have, hold, uſe, occupy, poſſeſs, and enjoy the ſaid manor or lordſhip, lands, hereditaments, and premiſes, herein before mentioned to be hereby aſſigned and demiſed reſpectively, with their and every of their rights, members, and appurtenances, for and during all the then reſidue of the ſaid ſeveral terms of — years, and — years, which ſhall be then reſpectively to come and unexpired, and to receive and take the rents, iſſues, and profits thereof, to his and their own uſe and benefit, without the lawful let, ſuit, trouble, interruption, diſturbance, claim, or de-

And that all or ſome of the parties have authority to aſſign and demiſe ſaid premiſes,

for — years, and to aſſign ſaid ſum of —.

And that in default of payment mortgage may enter,

And enjoy,

MORTGAGE. mand whatſoever, of, from, or by the ſaid *C. W. H. S. W. A. R. O. P. M. I.* lord viſcount ——, and *M. G. I.* either of them, or any other perſon or perſons whomſoever, claiming, or to claim by, from, or under, or in truſt for them, or either of them, and that free and clear, and freely and clearly acquitted, exonerated, and diſcharged of, from, and againſt all and every former or other gifts, grants, bargains, ſales, jointures, dowers, intails, mortgages, judgments, eſtates, debts, charges, and incumbrances whatſoever, had, made, done, committed, or ſuffered by them the ſaid *C. W. H. S. W. A. R. O. P. R.* and *P. R.* deceaſed, *I.* lord viſcount ——, and *M. G. I.* or any other perſon or perſons whomſoever, lawfully claiming by, from, or under, or in truſt, for them, or either of them. And alſo that if default ſhall be made in the payment of the ſaid ſum of ——, and intereſt for the ſame or any part thereof at the time hereinbefore mentioned and appointed for payment thereof, then and from thenceforth they the ſaid *C. W. H. S. W. A. R. O. I.* lord viſcount ——, and *M. G. I.* and all and every other perſon or perſons, having or lawfully claiming, or who ſhall or may at any time hereafter have or claim any eſtate, right, title, intereſt, of, into, or out of the ſaid manor or lordſhip, lands, hereditaments, and premiſes, hereinbefore mentioned, to be hereby aſſigned and demiſed, for the reſpective term of —— years and —— years, or any part thereof, by, from, under, or in truſt for them, or any of them ſhall and will from time to time, and at all times hereafter, at the requeſt of

Free from all incumbrances.

For further aſſurances.

the ſaid *B. A.* his executors, adminiſtrator, and aſſigns, but at the coſts and charges of the ſaid *I.* lord viſcount ——, his heirs, executors, or adminiſtrators, make, ſeal, acknowledge, levy, ſuffer, and execute, or cauſe and procure to be made, ſealed, acknowledged, levied, ſuffered, and executed, all and every ſuch further and other acts, deeds, fines, recoveries, conveyances and aſſurances in the law whatſoever, for the better, more perfect and abſolute granting, aſſigning, demiſing, and aſſuring and confirming the ſaid manor or lordſhip, lands, hereditaments, and premiſes hereinbefore mentioned, to be hereby aſſigned and demiſed, for and during all the reſidue and remainder which ſhall be then to come and unexpired of and in the ſaid reſpective terms of —— years and —— years, with their and every of their rights, members, and appurtenances, freed and diſcharged of, and from the proviſo herein contained for redemption of the ſaid premiſes, and all other equity of redemption whatſoever, and by ſuch ways and means as by the ſaid *B. A.* his executors, adminiſtrators, or aſſigns, or his or their counſel learned in the law, ſhall in that behalf be reaſonably deviſed, adviſed, or required. And it is hereby agreed and declared, by and between the ſaid parties to theſe preſents, that until default ſhall be made of and in payment of the ſaid ſum of ——, and intereſt for the ſame as aforeſaid, or ſome part thereof, it ſhall and may be lawful, to and for the perſon and perſons who now are, or ſhall or may become entitled to the freehold and inheritance of the ſaid premiſes, ſubject to the

MORTGAGE.

Proviſo that mortgagee ſhall poſſeſs until default of payment.

MORTGAGE. reſpective terms for years, peaceably and quietly to have, hold, uſe, occupy, poſſeſs and enjoy the ſaid manor or lordſhip, lands, hereditaments, and premiſes hereinbefore mentioned, to be hereby aſſigned and demiſed for the reſidue of the ſaid term of —— years, and for and during the ſaid term of —— years as aforeſaid, with their and every of their rights, members, and appurtenances, and to receive and take the rents, iſſues, and profits thereof to his, her, or their own uſe and benefit, without the lawful let, ſuit, trouble, interruption, claim and demand whatſoever, of, from, or by the ſaid *B. A.* his executors, adminiſtrators, or aſſigns, or any other perſon or perſons lawfully claiming, or to claim by, from, or under him, them, or any of them. In witneſs, &c.

Aſſignment of Leaſehold Premiſes, by Way of Mortgage, for ſecuring the Re-purchaſe of Stock.

Recital of a leaſe. This indenture made, &c. between *G. I.* of ——, of the one part, and *B. I.* of the other part, WHEREAS by indenture of leaſe bearing date on or about the —— day of ——, and made between *W. I.* of ——, of the one part, and the ſaid *G. I.* of the other part: It was witneſſed, that for the conſiderations therein mentioned, the ſaid *W. I.* did grant, demiſe, and leaſe, unto the ſaid *G. I.* all that, &c. To HOLD the ſaid piece or parcel of ground, foundation, and premiſes, with their and

every of their appurtenances, unto the ſaid *G. I.* his executors, adminiſtrators, or aſſigns, from the —— day of —— then next enſuing, unto the full end and term of —— years, to the ſaid *G. I.* paying for the front vaults and foundation then erected on the ſaid premiſes, the ſum of ——, at the ſealing and delivery of the now reciting indenture, and alſo paying during the firſt year and a quarter of the ſaid term at and under the rent of one pepper corn, and alſo paying for the remainder of the ſaid term, the yearly rent of £——, payable quarterly, under and ſubject to the covenants, clauſes, and agreements, therein contained, amongſt which was contained, a covenant that he the ſaid *G. I.* ſhould, at his own coſts and charges, erect and build upon the ſaid piece or parcel of ground, a meſſuage or tenement with the appurtenances, in manner as in the ſaid in part recited indenture of leaſe is mentioned, and relation being thereunto had, may fully and at large appear. AND WHEREAS the ſaid *G. I.* hath in purſuance of his ſaid covenant, erected and built on the ſaid piece or parcel of ground, a meſſuage or tenement, with neceſſary appurtenances thereunto belonging: AND whereas the ſaid *B. I.* hath agreed to lend and advance unto the ſaid *G. I.* upon a mortgage of the ſaid leaſehold premiſes, and on the ſaid *G. I.*'s bond, the ſum of ——, five per cent. bank annuities, of the year ——, being part of the ſtock of the ſaid *B. I.* in the ſaid fund, now ſtanding in his name, and which the ſaid *B. I.* hath agreed to transfer unto ſuch perſon, and in ſuch manner as the ſaid *G. I.* ſhall direct. NOW THIS

MORTGAGE.

Of premiſes being built purſuant to covenant.

Agreement for loan.

Conſideration.

MORTGAGE. INDENTURE WITNESSETH, that for and in consideration of the said sum of ——, five per cent. bank annuities, of the year ——, being part of his the said *B. I.*'s stock in the said fund, now standing in his name, unto the said *G. I.* transferred by the said *B. I.* at or before the sealing and delivering of these presents, the transfer and receipt whereof the said *G. I.* doth hereby acknowledge, and thereof, and of and from the same and every part and parcel thereof, doth acquit, release, and discharge the said *B. I.* his heirs, executors, and administrators, for ever, by these presents: he the said *G. I.* hath bargained, sold, assigned, transferred, and set over, unto the said *B. I.* his executors, administrators, and assigns, all that, &c. To

Habendum for remainder of the term.

HAVE AND TO HOLD the said piece or parcel of ground, with the said messuage or tenement thereon erected and built, and all and singular other the premises hereby granted and assigned, or mentioned or intended so to be, with all and singular their appurtenances, unto the said *B. I.* his executors, administrators, and assigns, for and during all the residue and remainder yet to come and unexpired of the said term of —— years, under and subject nevertheless to the rents and covenants in the said recited indenture of lease, contained on the lessee's part, to be paid, performed, and kept, for the same premises.

Proviso for redemption. *(a)*

PROVIDED ALWAYS, and these presents are upon this

(a) See *Elem. Con.* book II. part chap. V. and *Pow.* Mortg. 146, 150.

expreſs condition, that if the ſaid *G. I.* his heirs, executors, or adminiſtrators, do or ſhall, on or before the —— day of —— next enſuing the date of theſe preſents, purchaſe and transfer, or cauſe or procure to be purchaſed or transferred into the books of the Bank of *England*, in the name or names, and for the proper uſe and benefit of the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, the capital ſum of ——, 5 per cent. bank annuities (*a*), of the year ——, and in the mean time, and until ſuch purchaſe and transfer ſhall be made, do, and ſhall from time to time, as the ſame ſhall become due, pay, or cauſe to be paid, to the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, ſuch ſum and ſums of money, for intereſt, and dividends of the ſaid ſum of ——, 5 per cent. bank annuities, as the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, might have received, or become entitled

MORTGAGE.

(*a*) A queſtion being made whether a bond given for re-replacing ſtock by a borrower, at the election of the lender, within 6 months after the deceaſe of the borrowers father, Mr. FEARNE is ſtated to have been of opinion, that it was at leaſt, a dubious contract, upon the ground that it entitled the lender (in the event of the ſtock having riſen at the time the money is to be replaced,) to an advantage beyond his legal intereſt on the money advanced, without riſking the principal; and he obſerved, that if it were good, it would induce every lender of money at a time when ſtocks are very low, immediately before he advances the money to buy in the ſtocks, and then accompany his loan with ſuch a bond as he could loſe nothing by it, and probably might be a very conſiderable gainer.

MORTGAGE. to receive, in caſe the ſaid ——, 5 per cent. bank annuities, had continued in his name, and had not been ſold; that then, from, and immediately after ſuch payment, made as aforeſaid, theſe preſents, and every matter and thing herein contained, ſhall ceaſe, and be utterly void, to all intents and purpoſes whatſoever. And the ſaid *G. I.* his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree, to and with the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, by theſe preſents, that he the ſaid *G. I.* ſhall and will purchaſe and transfer, or cauſe to be purchaſed and transferred into the name of the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, the ſaid ſum of ——, 5 per cent. bank anns. at the place and times, and in the manner above mentioned, according to the true intent and meaning of the above written proviſo. AND alſo that the ſaid indenture of leaſe hereinbefore recited, is a good and ſufficient leaſe, valid in the law, and is yet in being, not forfeited, ſurrendered, or otherwiſe determined, or become void or voidable, and that he the ſaid *G. I.* hath in himſelf good right, full power, and lawful and abſolute authority, to aſſign the ſaid piece or parcel of ground and premiſes hereby aſſigned, or mentioned, or intended ſo to be, with the appurtenances, unto the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, for all the reſidue yet to come and unexpired of

Covenant for payment.

That leaſe is a good one. (*b*)

Hath good right to aſſign.

(*a*) See *Pow.* Mortg. 172.

the ſaid term of — years, in manner aforeſaid. And that the rents, covenants, and agreements, in the ſaid indenture of leaſe reſerved and contained on the leſſee's part, to be paid, done, or performed for the ſame premiſes, are, and have been well and truly paid, performed, fulfilled, and kept. And further, that he the ſaid *G. I.* his executors, adminiſtrators, or aſſigns, ſhall and will, from time to time, until default ſhall happen to be made in payment of the ſaid ſum of ——, 5 per cent. bank annuities, and the intereſt thereof, according to the true intent and meaning of the proviſo hereinbefore contained, pay, perform, and keep, the rents, covenants, and agreements, in the ſaid recited indenture of leaſe contained on the leſſee's part, to be paid, performed, and kept, for or in reſpect of the ſaid leaſehold premiſes, or any part thereof; and likewiſe, that from and immediately after default ſhall happen to be made of or in payment of the ſaid ſum of ——, 5 per cent bank annuities, or any part thereof, or of the intereſt, dividends, and produce thereof, contrary to the true intent and meaning of the aforeſaid proviſo, it ſhall and may be lawful, to and for the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, to enter into, and from thenceforth, for and during all the reſidue and remainder which ſhall be then to come and unexpired of the ſaid term of — years, peaceably and quietly to have, hold, and enjoy, and have, receive, and take the rents, iſſues, and profits, of the ſaid piece or parcel of ground, meſſuage, or tenement, and premiſes, hereby aſſigned as aforeſaid, or mentioned,

MORTGAGE.

That the rents have been paid and the covenants performed.

Quiet enjoyment.

MORTGAGE. or intended ſo to be, and of every of them, and every part and parcel thereof, without the let, ſuit, hindrance, interruption, or denial, of the ſaid *G. I.* his executors, adminiſtrators, or aſſigns, or of any other perſon or perſons whatſoever, and that free and clear, and freely and clearly, and abſolutely acquitted, exonerated, and diſcharged, of, from, and againſt all and all manner of former and other gifts, grants, bargains, ſales, jointures, dowers, right; and title of dower, mortgages, rents, arrears of rent, ſtatutes, recognizances, judgments, titles, charges and incumbrances whatſoever, had, made, done, executed, committed, or ſuffered, or to be had, made, done, executed, committed, or ſuffered (ſubject only to the ſaid rents and covenants, reſerved and contained in the ſaid above in part recited indenture of leaſe, on the leſſee's part to be paid and performed. AND moreover, that he the ſaid *G. I.* his heirs, executors, and adminiſtrators, and all and every other perſon and perſons having, or lawfully claiming any eſtate, right, title, truſt, or intereſt, of, into, or out of the ſaid piece or parcel of ground, meſſuage, or tenement, and premiſes, mentioned to be hereby aſſigned as aforeſaid, or any part thereof, ſhall and will, from time to time, and at all times from and after ſuch default ſhall happen to be made of or in payment, as aforeſaid, at the reaſonable requeſt, and proper coſts and charges in the law, of the ſaid *B. I.* his

Free from incumbrances.

Further aſſurance (*a*)

(*a*) See *Pow.* Mort. 151, 341.

executors, adminiſtrators, and aſſigns, make, do, and execute, or cauſe and procure to be made, done, and executed, all ſuch further and other lawful and reaſonable act and acts, thing and things, conveyances and aſſurances, in the law whatſoever, for the further, better, and more perfect and abſolute conveying and aſſuring the ſaid piece or parcel of ground, meſſuage, or tenement, and premiſes, mentioned to be hereby aſſigned, and every part thereof, with their appurtenances, unto the ſaid *B. I.* his executors adminiſtrators, or aſſigns, for and during all the reſidue and remainder which ſhall be then to come and unexpired of the ſaid term of — years, as by the ſaid *B. I.* his executors, or adminiſtrators, or aſſigns, or his or their counſel in the law, ſhall be reaſonably deviſed, adviſed, and required. And laſtly, it is hereby mutually agreed and declared, by and between the ſaid parties to theſe preſents, for themſelves, their executors, adminiſtrators, and aſſigns, that until default ſhall be made of, or in payment of the ſaid ſum of ——, 5 per cent. bank annuities, and the intereſt thereof, or ſome part thereof, contrary to the proviſo and covenant hereinbefore for that purpoſe contained, it ſhall and may be lawful to and for the ſaid *G. I.* his executors, adminiſtrators, and aſſigns, peaceably and quietly to have, hold, uſe, occupy, poſſeſs, and enjoy, all and ſingular the ſaid piece or parcel of ground, meſſuage, or tenement, and premiſes,

MORTGAGE.

Quiet enjoyment until default. *(a)*

(a) Pow. Mort. 1129.

MORTGAGE.

with their and every of their appurtenances, and to receive and take the rents, iſſues, and profits thereof, to and for his and their own uſe and benefit, without any let, ſuit, trouble, denial, eviction, account, moleſtation, or interruption, whatſoever, of, from, or by the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, or any other perſon or perſons whomſoever, claiming by, from, or under him, them, or any of them. And whereas the premiſes hereby aſſigned, or intended ſo to be, were, by a certain policy of inſurance, of the —— fire office, *London*, No. —, bearing date the — day of ——, inſured to the ſaid *G. I.* from loſs or damage by fire, to the value of ——, for the term of one whole year, from the date of the ſaid policy. NOW THIS INDENTURE FURTHER WITNESSETH, that for the conſiderations aforeſaid, and in conſideration of the further ſum of 5s. of like lawful money of *Great Britain*, to the ſaid *G. I.* by the ſaid *B. I.* in hand well and truly paid, at and before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, he the ſaid *G. I.* hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer, and ſet over, unto the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, the ſaid hereinbefore recited inſtrument or policy of inſurance, No. ——, and all ſum and ſums of money inſured upon the ſame premiſes, or any part thereof, by virtue of the ſaid policy of inſurance, or otherwiſe howſoever, or recoverable, or to be recovered upon the ſame, and depoſit, or ſums of money, to be

Recital of policy of inſurance.

Aſſignment of ſame.

returned upon the ſaid policy, and all benefit to be had and taken therefrom, and all the eſtate, right, title, and intereſt, of him the ſaid *G. I.* of, in, and to the ſame, to have, hold, receive, take, and enjoy the ſame, and every part thereof, unto the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, but ſubject, nevertheleſs, to ſuch equity of redemption as hereinbefore mentioned, touching the ſaid premiſes hereby, or intended to be hereby granted and aſſigned. And the ſaid *G. I.* for himſelf, his executors and adminiſtrators, doth hereby covenant, promiſe, and agree, to and with the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, that he the ſaid *G. I.* his executors or adminiſtrators, ſhall and will well and truly pay to the ſaid ſociety of the —— fire office, all ſuch annual ſum and ſums of money as ſhall grow due on the ſaid policy of inſurance from loſs or damage by fire. In witneſs, &c.

MORTGAGE.

Covenant to pay premium on policy of inſurance.

Aſſignment by way of Mortgage of Leaſehold Premiſes, let on a Building Leaſe.

THIS indenture made the —— day of ——, between *N. M.* of the one part, and *S. I.* and *S. T.* of the other part; whereas by indenture of leaſe bearing date on or about the —— day of ——, which was in the year of our Lord ——, and made or

Recital of leaſe of the ground to M. N.

MORTGAGE. mentioned to be made betweed *P. W.* of the one part, and the ſaid *N. M.* of the other part, it is witneſſed, that for the conſiderations there expreſſed, he the ſaid *P. W.* by virtue and in purſuance of the power and authority for that purpoſe, given to, or veſted in him, in and by an act of parliament made and paſſed in the — year of the preſent king, intitled an act to enable *P. W.* eſquire, to grant leaſes of certain eſtates, in the county of ——, and city of ——, and of all other power and powers, enabling him thereto, did demiſe, leaſe, let, and to farm unto the ſaid *N. M.* his executors, adminiſtrators and aſſigns, all &c. To hold the ſame piece or parcel of ground, &c. unto the ſaid *N. M.* his executors, adminiſtrators and aſſigns, from the feaſt day of ——, then next enſuing, for and during, and unto the full end and term of —— years, from thence next enſuing, and fully to be complete and ended, and under the yearly of one pepper corn for the firſt year of the ſaid term, if the ſame ſhall be demanded, and for the reſt, reſidue, and remainder of the ſaid term of —— years, which, from and after the expiration of the ſaid firſt year, ſhall be then to come and unexpired, (except the laſt half year thereof), the clear yearly rent or ſum of £.——, being the beſt and moſt beneficial yearly rent that could be reaſonably had or gotten for the ſame premiſes, payable as therein is mentioned, and alſo, at and under the clear yearly rent of £.——, for the laſt half year of the ſaid term of —— years, payable alſo, as in the ſaid in part recited indenture of leaſe is mentioned. AND the ſaid *N. M.* did

Habendum to N. M. for —— years.

At the rent of £——.

MORTGAGE.

Covenant therein from N. M. to build thereon three meſſuages

thereby covenant, promiſe, and agree to, and with the ſaid *P. W.* his executors, adminiſtrators and aſſigns, and the perſon or perſons to be intitled as therein is mentioned, that he the ſaid *N. M.* his executors, adminiſtrators or aſſigns, ſhould and would within the firſt year of the ſaid term of — years, at his or their own coſts and charges, pull down all the buildings then ſtanding, and being thereon, and erect upon the ſaid piece or parcel of ground, three good ſubſtantial dwelling houſes of the firſt claſs of building, and within the firſt two years of the ſaid term, completely finiſh the ſame fit for habitation. And whereas, the ſaid *N. M.* hath accordingly in purſuance of the ſaid laſt mentioned covenant, pulled down all the ſaid buildings, and hath erected and is now covering in and finiſhing the ſaid three meſſuages, &c. covenanted to be built as aforeſaid. And whereas, by certain articles of agreement bearing date on or about the — day of ———, and made between the ſaid *N. M.* of the one part, and *P. H.* of the other part, the ſaid *N. M.* for himſelf, his executors, adminiſtrators and aſſigns, agreed with the ſaid *P. H.* his executors, adminiſtrators and aſſigns, to complete, and finiſh in a good ſubſtantial and workmanlike manner, the meſſuages, &c. bounded, &c. then building by the ſaid *N. M.* together with the coach-houſe, &c. the premiſes to contain the ſeveral rooms, and fitted up as therein mentioned, and that when and as ſoon as the ſame meſſuages, &c. were completed, he the ſaid *N. M.* ſhould (for the conſiderations therein mentioned) by a good and ſufficient indenture

MORTGAGE. of leaſe, demiſe, and leaſe the ſame meſſuages, &c. and the ground whereupon the ſame was erected, to the ſaid *P. H.* his executors, adminiſtrators and aſſigns: To hold for the term of —— years wanting — days from ———, then next enſuing, at and under the clear yearly rent of £——, payable as therein mentioned, in conſideration whereof the ſaid *P. H.* for himſelf his executors, adminiſtrators and aſſigns, did thereby agree with the ſaid *N. M.* his executors, adminiſtrators, and aſſigns, to accept and take ſuch leaſe of the ſaid premiſes for the term, at the rent, and upon the conditions thereinbefore mentioned, and execute a counterpart thereof upon requeſt, and pay to the ſaid *N. M.* for the ſame, the ſum of £——, of lawful money of *Great Britain*, at the times and in manner therein mentioned, (that is to ſay), £——, when the ſaid meſſuage, &c. was covered in, and the further ſum of £—— when, and as ſoon as the ſame ſhould be completed, as in and by the ſaid in part recited articles mentioned, relation being thereto had will more fully and at large appear: AND whereas the ſaid *N. M.* having occaſion for the ſum of £——, to enable him to complete the ſaid buildings, did apply to *S. I.* and *S. T.* to advance and lend him the ſame; and they the ſaid *S. I.* and *S. T.* did agree to advance and lend him the ſame upon the bond or obligation of the ſaid *G. G. D. W.* and the ſaid *N. M.* and having an aſſignment of the ſaid leaſehold premiſes as after mentioned, and being alſo further collaterally ſecured by the ſaid *D. W.* by an indenture of deed-poll intended to bear even date herewith, and to be made between the ſaid *D. W.*

Which P. H. agreed to accept.

and the ſaid *S. I.* and *S. T.* AND whereas, in and by one bond or obligation, bearing even date herewith they the ſaid *G. G. D. W.* and *N. M.* did accordingly become jointly and ſeverally held and firmly bound to them the ſaid *S. I.* and *S. T.* in the penalty or ſum of £——, conditioned for the payment of the ſaid ſum of £—— with lawful intereſt for the ſame on the — day of ——, now next enſuing, as in and by the ſaid in part recited bond or obligation, and the condition thereof, reference being thereto had will more fully and at large appear. AND whereas, for the further and better ſecuring the re-payment of the ſaid ſum of £——, and the intereſt thereof, to the ſaid *S. I.* and *S. T.* their executors, adminiſtrators and aſſigns, he the ſaid *N. M.* hath alſo agreed to, and with the ſaid *S. I.* and *S. T.* to aſſign and transfer to them the ſaid *I. S.* and *S. T.* in manner hereinafter mentioned, the ſaid in part recited indenture of leaſe, and agreement, and all and every the ſaid meſſuages, &c. and all the ſaid *N. M's.* eſtate, right and intereſt in the before mentioned leaſe, made between him and the ſaid *P. W.* and alſo, all his the ſaid *N. M's.* eſtate, right, title, intereſt, claim, and money ſecured, in and by the ſaid in part recited articles of agreement, and the demiſe therein covenanted and agreed to be made as aforeſaid, between him and the ſaid *P. H.* Now this indenture witneſſeth, that as well for and in conſideration of the ſaid ſum of ——, ſo lent and advanced as aforeſaid, and now actually due and owing upon the ſaid in part recited bond of the ſaid *G. G. D. W.* and *N. M.* unto them the ſaid *S. I.* and *S. T.* as alſo, for and in conſideration of

MORTGAGE.

Bond from *G. G. W. D.* and N. M.

That N. M had agreed to aſſign leaſehold premiſes, and leaſe, and all benefit to the ſaid agreement with P. H.

MORTGAGE.

the ſum of ——, in lawful money of *Great Britain* unto him the ſaid *N. M.* in hand, well and truly paid by the ſaid *S. I.* and *S. T.* at and immediately before the ſealing and delivery of theſe preſents, the receipt whereof, &c. He the ſaid *N. M.* hath bargained, ſold, aſſigned, transferred and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer and ſet over unto the ſaid *S. I.* and *S. T.* their executors, adminiſtrators and aſſigns, as well the ſaid in part recited indenture of leaſe ſo made as aforeſaid, as all and every the ſaid piece or parcel of ground, and all and ſingular, other the premiſes with the appurtenances in and by the ſaid hereinbefore in part recited indenture of leaſe, demiſed or meant, mentioned, or intended ſo, to be unto the ſaid *N. M.* his executors, adminiſtrators and aſſigns, and alſo all and ſingular the ſaid meſſuages, &c. and all the premiſes with their and every of their rights, members, and appurtenances erected, and built, and now erecting and building upon the ſaid piece or parcel of ground; and alſo, all his the ſaid *N. M's.* eſtate, right, intereſt, term, and terms of years yet to come and unexpired, truſt, property, benefit, claim and demand whatſoever, both at law and in equity of him the ſaid *N. M.* his executors, adminiſtrators, or aſſigns, of into, or, out of the ſaid piece or parcel of ground, meſſuages, &c. any or either of them, or any part or parcel thereof by force or virtue of the ſaid in part recited indenture of leaſe or otherwiſe howſoever: To have and to hold the ſaid piece or parcel of ground, and the ſaid meſſuages, &c. and all and ſingular other, the premiſes with their and every of their

N. M. bargains and ſells unto *S. I.* and *S. T.* ſaid leaſe and premiſes.

rights, members and appurtenances, in and by the said in part recited indenture of leaſe mentioned, and hereby mentioned, and intended to be hereby aſſigned with their and every of their appurtenances unto the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, from henceforth for and during all the reſt, reſidue, and remainder of the ſaid term of — years, now to come and unexpired, of and in the ſame, in as large, ample, and beneficial a manner, to all intents and purpoſes whatſoever, as he, the ſaid *N. M.* his executors, adminiſtrators, and aſſigns, might or could have held, or enjoyed the ſame, if theſe preſents had not been made, ſubject to the rents and covenants reſerved, due, and payable in and by the ſaid in part recited indenture of leaſe, from the day of the date hereof, and alſo ſubject nevertheleſs to the proviſo and agreement for redemption of the ſame premiſes, as hereinafter is mentioned. AND the ſaid *N. M.* doth hereby, for himſelf, his executors, adminiſtrators, and aſſigns, covenant, promiſe, and agree to and with the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, that he, the ſaid *N. M.* his executors, adminiſtrators, or aſſigns, or ſome or one of them, ſhall and will agreeable to and in full performance of the covenant in the ſaid in part recited indenture of leaſe, for that purpoſe well and ſufficiently and in a good workman-like manner completely erect and finiſh all the ſaid meſſuages or tenements therein covenanted to be erected and built as aforeſaid, and alſo ſhall and will within the time limited (*a*)

MORTGAGE.

Subject to the rents in ſaid leaſe, and alſo to covenants for redemption herein.

Covenant from N. M. to erect ſaid meſſuages agreeable to the covenant in ſaid leaſe contained.

(*a*) See ante, Vol. I. p. 25.

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and within the time, to finiſh the houſe for P. H. according to agreement; and then join with S. I. and S. T. in making a leaſe to P. H.

in and by the ſaid in part recited articles, mentioned well and ſubſtantially erect and completely finiſh the meſſuages, &c. therein mentioned to be erected and finiſhed. AND alſo in manner and at the time therein mentioned, well and truly join the ſaid *S. I.* and *S. T.* in granting the ſaid leaſe to the ſaid *P. H.* upon the terms and conditions and for the term and at and under the yearly rent therein reſerved, mentioned, and contained. AND

N. M. aſſigns articles to S. I. and S. T. and ſaid ſum of — hereby reſerved.

this indenture further witneſſeth, that for the conſiderations aforeſaid, he, the ſaid *N. M.* doth hereby aſſign and ſet over unto them, the ſaid *S. I.* and *S. T.* the ſaid in part recited articles, and all and every the ſaid ſum of —, thereby reſerved and covenanted to be paid as aforeſaid, and the rent to be reſerved in and under the leaſe mentioned and intended to be granted in manner aforeſaid to the ſaid *P. H.* and all his, the ſaid *N. M.*'s eſtate and intereſt, of, in, and to the ſaid in part recited articles, to have, hold, receive, and take the ſame ſum of —, and every part thereof, unto them, the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, ſubject to the ſaid proviſo hereinafter mentioned. PROVIDED always, and theſe preſents are upon this expreſs condition, and it is hereby declared and agreed by and between the ſaid parties to theſe preſents, that if the ſaid *N. M.* his heirs, executors, or adminiſtrators, or the ſaid *G. G.* or *D. W.* their heirs, executors, adminiſtrators, or aſſigns, or any or either of them, ſhall and do, well and truly, pay, or cauſe to be paid, unto the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, or aſſigns, the full and juſt ſum of —

Habendum to mortgagee ſubject to the Proviſo for redemption.

of lawful money of Great Britain, together with intereſt for the ſame, at and after the rate of five per cent. per annum, on the day of ——, now next enſuing, at or in the common hall of ——, in the county of ——, without any deduction, defalcation, or abatement out of the ſame or any part thereof, for, or in reſpect of any taxes, charges, aſſeſſments, payments, and other matter, cauſe, or thing whatſoever, heretofore taxed, charged, or impoſed, or hereafter to be taxed, charged, or impoſed upon the aforeſaid premiſes, or any of them, or any part thereof, or upon the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, or aſſigns, in reſpect thereof by authority of parliament, or otherwiſe howſoever, that then and in ſuch caſe, they, the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, or aſſigns, ſhall and will, upon the requeſt and at the proper coſts and charges in the law of the ſaid *N. M.* his executors, adminiſtrators, or aſſigns, re-convey and re-aſſign, or cauſe to be re-conveyed and re-aſſigned, unto the ſaid *N. M.* his executors, adminiſtrators, or aſſigns, or to any other perſon or perſons, as he or they ſhall for that purpoſe nominate and appoint, ALL and ſingular the before mentioned piece or parcel of ground, meſſuages, &c. with their appurtenances, hereby or mentioned and intended to be hereby conveyed and aſſigned as aforeſaid, free from all incumbrances, to be had or made by them, the ſaid *S. I.* and *S. T.* or any or either of them, their, or any or either of their executors, adminiſtrators, or aſſigns, in the mean time; AND the ſaid *N. M.* doth hereby, for himſelf, his heirs, MORTGAGE.

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executors, and adminiſtrators, covenant, promiſe, and agree to and with the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, in manner following, that is to ſay, that he, the ſaid *N. M.* his executors or adminiſtrators, ſhall and will well and truly pay or cauſe to be paid, unto the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, or aſſigns, the ſaid ſum of —, together with intereſt for the ſame, at and after the rate of £— per cent. per annum, at ſuch time and place, and in ſuch manner and form as are hereinbefore mentioned and appointed for payment thereof, without any deduction or abatement for taxes, or otherwiſe, according to the purport, true intent, and meaning of theſe preſents. AND further the ſaid *N. M.* doth hereby for himſelf, his executors and adminiſtrators, covenant, promiſe, and agree to and with the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, that the ſaid hereinbefore in part recited indenture of leaſe and articles of agreement, are, at the time of the ſealing and delivery of theſe preſents, good and valid in the law, and now ſtand in full force, unforfeited and unſurrendered, and not in any wiſe made void or voidable, by any act, deed, matter, or thing whatſoever. AND that he, the ſaid *N. M.* now is and ſtandeth lawfully and rightfully poſſeſſed of, or intitled to, all the ſaid piece or parcel of ground, hereditaments, and premiſes, for and during the reſidue and remainder of the ſaid term of — years, under and ſubject to the rents, covenants, and agreements, by and in the ſaid recited articles of agreement, ſo entered into and executed as

Covenant for payment of mortgage money with intereſt.

That the leaſe and articles of agreement are valid.

Lawfully poſſeſſed.

aforeſaid. AND alſo, that he, the ſaid *N. M.* now hath in himſelf, good right, full power, and lawful and abſolute authority, to aſſign and ſet over the ſaid piece or parcel of ground and meſſuages, &c. hereby aſſigned, or mentioned or intended ſo to be, with their appurtenances, and all his eſtate and intereſt in and under the ſaid in part recited articles, unto the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, for and during all the reſidue and remainder of the ſaid term of — years, or ſuch other eſtate and intereſt, as he hath therein in manner aforeſaid, and according to the true intent and meaning of theſe preſents; and that in caſe the ſaid *N. M.* his executors, adminiſtrators, and aſſigns, ſhall happen to make default of or in payment of the ſaid ſum of —— and the intereſt thereof, at the time abovementioned, for paying off the ſame, that then and from thenceforth and at all times afterwards, it ſhall and may be lawful to and for the ſaid *S. I.* and *S. T.* ſome or one of them, their, or ſome or one of their executors, adminiſtrators, or aſſigns, peaceably and quietly to enter into, and to have, hold, uſe, occupy, poſſeſs, and enjoy the ſaid hereby mentioned hereditaments and premiſes, with their appurtenances, and the rents, iſſues, and profits thereof, to their and each and every of their proper uſe and behoof, to receive and take for and during all the then reſidue and remainder of the ſaid term of — years, then to come and unexpired, or of ſuch further eſtate and intereſt as he, the ſaid *N. M.* his executors, adminiſtrators, or aſſigns, hath, or may have, in the

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Right to aſſign.

S. I. and S. T. mortgagees, to enter in caſe of default,

and to hold premiſes for remainder of ſaid term of — years.

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ſaid premiſes, under or by virtue of the ſaid in part recited leaſe and articles ſo made as aforeſaid, without any let, ſuit, trouble, denial, eviction, moleſtation, or hindrance, of or by the ſaid *N. M.* his executors, adminiſtrators, and aſſigns, or any other perſon or perſons whomſoever, claiming, or to claim, by, from, or under him, them, or any of them; and that free and clear, and freely and clearly, acquitted, exonerated, and diſcharged, of, from, and againſt, all, and all manner of former and other bargains, ſales, gifts, grants, leaſes, wills, uſes, mortgages, conditions, rents, arrears of rent, aſſignments, ſtatutes, judgments, executions, extents, and of and from all other charges and incumbrances, had, made, done, committed, or ſuffered, or to be had, made, done, committed, or ſuffered by the ſaid *N. M.* his executors, adminiſtrators, and aſſigns, or by any other perſon or perſons whomſoever. AND moreover that he, the ſaid *N. M.* his executors, adminiſtrators, and aſſigns, and all and every other perſon and perſons having or lawfully claiming, or who ſhall or may have, or lawfully claim any eſtate, right, title, or intereſt, of, in, to, or out of the ſaid hereditaments and premiſes, mentioned, and intended to be hereby aſſigned, or any part thereof, ſhall and will from time to time, and at all times during the ſaid term, from and after default ſhall happen to be made of, and in payment of the ſaid ſum of ——, or any part thereof, contrary to the form and effect of the aforeſaid proviſo, and covenant for payment of the ſame, upon every reaſonable requeſt of the ſaid

Further aſſurance in caſe of default.

S. I. and *S. T.* their executors, adminiſtrators, and aſſigns, but at the proper coſts and charges in the law of the ſaid *N. M.* his executors, adminiſtrators and aſſigns, make, do, and execute, or cauſe and procure to be made, done, and executed, all and every ſuch further and other lawful and reaſonable act and acts, thing and things, deed and deeds, matters and things, devices, conveyances, and aſſurances in the law whatſoever, for the further and more perfect aſſigning, conveying, and aſſuring of the ſaid hereditaments and premiſes mentioned or intended to be hereby aſſigned, with their and every of their rights, members and appurtenances unto them the ſaid *S. I.* and *S. T.* their executors, adminiſtrators and aſſigns, for the remainder of the ſaid term of —— years, then to come and unexpired, for the better ſecuring the ſaid ſum of ——, and intereſt thereof, according to the true intent and meaning of theſe preſents, as by the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, or his or their counſel learned in the law, ſhall be reaſonably deviſed, or adviſed and required. AND laſtly, it is hereby declared and agreed, by and between the ſaid parties to theſe preſents, that in the mean time, and until default ſhall happen to be made, of or in payment of the ſaid ſum of ——, and intereſt thereof, or ſome part thereof, contrary to the true intent and meaning of theſe preſents, that it ſhall and may be lawful to and for the ſaid *N. M.* his executors, adminiſtrators, and aſſigns, peaceably and quietly to have, hold, uſe, occupy, poſſeſs and enjoy the ſaid piece or parcel of ground, hereditaments and premiſes, with the appurtenances, and

MORTGAGE.

Peaceable enjoyment by mortgager till default.

MORTGAGE. receive, and take the rents, iſſues, and profits thereof, to and for his and their own uſe and benefit without any interruption or diſturbance, of or by the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, IN WITNESS, &c.

Further Charge by Way of Collateral Security, for the before-mentioned Sum of ——, and Intereſt.

Recitals. To all to whom theſe preſents ſhall come, but more particularly to *S. I.* and *S. T.* of, &c. and *D. W.* of, &c. WHEREAS, [reciting the ground leaſe of the —— day of ——, and bond from *G. G. D. W.* and *N. M.* and alſo the laſt deed of aſſignment of the ——— day of ———.] And whereas by indentures of leaſe and releaſe, bearing date reſpectively the — and — days of ——, and made, or mentioned to be made, between the ſaid *D. W.* of the one part, and the ſaid *S. I.* and *S. T.* of the other part, for the conſiderations therein mentioned, he the ſaid *D. W.* did grant, releaſe, and convey unto the ſaid *S. I.* and *S. T.* their heirs and aſſigns, all and every the manor, &c. to hold the ſame laſt mentioned premiſes unto the ſaid *S. I.* and *S. T.* their heirs and aſſigns, by way of mortgage for ſecuring the ſum of ——, and intereſt, as therein mentioned, ſubject to a proviſo in the ſaid indenture of releaſe contained for redemption of the ſame laſt mentioned premiſes, on payment by the ſaid *D. W.* his heirs,

That a mortgage affected the collateral ſecurities of — to S. I. and S. T.

executors, and adminiſtrators, unto the ſaid *S. I.* and *S. T.* their executors, adminiſtrators, and aſſigns, of the ſaid ſum of —— principal money, and intereſt for the ſame, after the rate of — per cent. per ann. at ſuch place and in ſuch manner, and at ſuch times as are therein for that purpoſe mentioned and expreſſed. AND WHEREAS previous to the loan of the ſaid ſum of ——, hereinbefore mentioned to have been lent and advanced by the ſaid *S. I.* and *S. T.* unto the ſaid *G. G. D. W.* and *N. M.* upon the ſecurities aforeſaid, it was expreſsly ſtipulated and agreed upon, by and between the ſaid *S. I.* and *S. T.* and the ſaid *D. W.* that in caſe the ſaid hereinbefore mentioned ſecurities ſo given for ſecuring the ſaid ſum of —— and intereſt as aforeſaid, ſhould prove a ſcanty ſecurity for the ſame, and the ſame ſum of —— and intereſt as aforeſaid, ſhould not be paid to the ſaid *S. I.* and *S. T.* according to the proviſo in the ſaid in part recited indenture of aſſignment, mentioned for payment and redemption thereof, and according to the condition of the ſaid in part recited bond, that then, and in ſuch caſe, all and ſingular the before mentioned premiſes, in the ſaid in part recited indentures of leaſe and releaſe, of the —— and —— days of ——, mentioned to have been granted and releaſed as aforeſaid, ſhall ſtand charged and chargeable with, and be (after payment of the before mentioned mortgage of ——, and all intereſt due and to grow due for the ſame thereon) as a further ſecurity to them the ſaid *S. I.* and *S. T.* for the further and better ſecuring the re-payment of the

MORTGAGE.

And that it was agreed on this loan, that this additional ſecurity ſhould be at the option of the mortgagees, viz. if they thought their firſt inſufficient,

MORTGAGE.

ſaid ſum of ——, in manner aforeſaid, and that the ſaid laſt mentioned mortgaged and releaſed premiſes, ſhould not be redeemed or redeemable until as well the ſaid laſt mentioned ſum of —— and intereſt as the before mentioned ſum of —— and intereſt are fully ſatisfied and paid, according to the true intent and meaning of all the ſaid in p recited ſecurities, and of theſe preſents, and the agreement made by the ſaid *D. W.* with the ſaid *S. I.* and *S. T.* as aforeſaid. AND WHEREAS it is conceived that the ſaid leaſehold premiſes, and the before in part recited ſecurities, may be a ſcanty ſecurity for the ſaid ſum of —— and intereſt as aforeſaid, and therefore the ſaid *S. I.* and *S. T.* have applied to and requeſted the ſaid *D. W.* to give them the ſaid conditioned and collateral ſecurity ſo propoſed and agreed to be given to them as aforeſaid, and which he hath conſented and agreed to do. NOW KNOW YE, that the ſaid *D. W.* for the conſiderations aforeſaid, and for the better ſecuring the re-payment of the ſaid ſum of —— and intereſt as aforeſaid, according to the proviſo in the ſaid in part recited indenture of aſſignment of mortgage, of even date herewith, is mentioned, and condition of the ſaid in part recited bond, and the true intent and meaning of all the ſaid in part recited ſecurities, and of theſe preſents, and alſo in conſideration of 5s. to him the ſaid *D. W.* in hand, well and truly paid by the ſaid *S. I.* and *T. S.* &c. the receipt whereof, &c. he the ſaid *D. W.* doth hereby for himſelf, his executors, adminiſtrators, and aſſigns, covenant, promiſe, acknowledge, confeſs, declare, and

Mortgagees conceive that leaſehold premiſes are inſufficient, and require collateral ſecurity, which D W. agrees to give.

agree, to and with the ſaid *S. I.* and *S. T.* their heirs, executors, adminiſtrators, and aſſigns, by theſe preſents, that all, &c. in the ſaid indentures of leaſe and releaſe reſpectively, granted, releaſed, and conveyed as aforeſaid, and every part and parcel thereof, with their and every of their rights, members, and appurtenances, and alſo all the eſtate, right, title, intereſt, benefit, property, profit, claim and demand whatſoever, both at law and in equity, of him the ſaid *D. W.* his heirs or aſſigns, of, in, or to the ſame or any part thereof, ſhall from henceforth ſtand charged and chargeable with and be a ſecurity to them the ſaid *S. I.* and *S. T.* their heirs, executors, adminiſtrators, and aſſigns, as well for the further and better ſecuring the re-payment of the ſaid ſum of —— and intereſt as aforeſaid, as the ſaid ſum of —— and intereſt, and that the ſaid mortgaged and releaſed premiſes, and every of them, and every part thereof, with their and every of their rights, members, and appurtenances, ſhall not be redeemed or redeemable, until as well the ſaid ſum of —— and intereſt in manner aforeſaid, as the ſaid ſum of —— and intereſt as aforeſaid, ſhall be fully paid and ſatisfied to them the ſaid *S. I.* and *S. T.* their heirs, executors, adminiſtrators, and aſſigns, or as they ſhall direct or appoint. PROVIDED ALWAYS NEVERTHELESS, [*a proviſo for redemption, by D. W. ſimilar to the one in the laſt deed.*] [*Covenant from D. W. to pay the £—— and intereſt, as is likewiſe in the laſt deed.*] In witneſs, &c.

MORTGAGE.

Proviſo for redemption.

Covenant to pay.

MORTGAGE.

Aſſignment of Leaſehold Eſtates by Way of Mortgage, for further ſecuring a Sum of Money, for which alſo a Mortgage of other Freehold Eſtates is taken. "Drawn by Mr. PICKERING." *Pow. MSS.*

Parties.

THIS INDENTURE made, &c. between *B. J.* of ——, in the county of ——, yeoman, of the one part, and *F. R.* of ——, in the county of ——, eſq. of the other part. WHEREAS by indenture of leaſe and releaſe, the leaſe bearing date the —— day of —— next, before the day of the date of the releaſe, and the releaſe being quinquepartite, bearing even date herewith, and made, or expreſſed to be made between the reverend *W. N.* of the firſt part, *S. R.* eſq. of the ſecond part, the ſaid *B. J.* of the third part, *P. T.* eſq. of the fourth part, and the ſaid *F. R.* of the fifth part. In conſideration of the ſum of ——, to the ſaid *W. N.* paid by the ſaid *F. N.* at the requeſt and by the direction of the ſaid *S. R.* and *B. J.* and alſo in conſideration of the ſum of —— to the ſaid *S. R.* paid by the ſaid *B. J.* and of the ſum of 10s. a-piece therein mentioned, to be paid to the ſaid *W. N.* and *S. R.* by the ſaid *P. T.* the meſſuages, farms, lands, tenements, tithes, and hereditament, therein mentioned, ſituate, lying, being, and ariſing in or near —— ſtreet, otherwiſe —— ſtreet, in the pariſh of ——, otherwiſe ——, &c. in the county of ——, have been conveyed and aſſured to the uſe of the ſaid *F. R.* his executors, adminiſtrators, and aſſigns, for the term of —— years, without

Recital of a leaſe and releaſe, limiting terms for years, &c. to F. R. remainder in fee to B. J. and his heirs.

impeachment of waſte, ſubject to the proviſo or condition therein and hereinafter mentioned, for making void the ſame term, and from and after the end, expiration, or ſooner determination of the ſaid term, and in the mean time ſubject thereto, to the uſe of the ſaid *B. J.* and his heirs for ever, in which ſaid indenture of releaſe is contained a proviſo and agreement, that if the ſaid *B. J.* his heirs, executors, adminiſtrators, and aſſigns, or any of them do, and ſhall pay or cauſe to be paid unto the ſaid *F. R*, his executors, adminiſtrators, or aſſigns, the ſum of —— of good and lawful money of *Great Britain*, in the ſhares or proportions, and on or at the days or times therein and hereinafter mentioned, (that is to ſay) the ſum of —— being half a year's intereſt of the ſaid principal ſum of —— at the rate of 5l. per 100l. for a year, on the —— day of —— next enſuing the date of theſe preſents, and the ſum of ——, reſidue thereof, being the whole of the ſaid principal ſum of ——, and another half year's intereſt thereof, at the rate aforeſaid, on the —— day of —— then next enſuing, and which will be in the year of our Lord ——, without any deduction or abatement whatſoever, then and in ſuch caſe, and from and after ſuch payments ſhall be ſo made as aforeſaid, the ſaid term and eſtate of —— years ſhall ceaſe and be void. And alſo a proviſo and agreement, that if the ſaid *B. J.* his heirs, executors, adminiſtrators, and aſſigns, do, and ſhall from time to time, ſo long as the ſaid principal ſum of ——, ſhall remain and continue upon that ſecurity, pay, or cauſe to be paid unto the ſaid *F. R.* his execu-

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with proviſion for ceaſing thereof on payment of ——, &c on days therein mentioned.

And alſo a proviſo to take leſs per cent. on payment thereof, as therein mentioned.

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tors or adminiſtrators, intereſt for the ſaid ſum of ——, at the rate of —— for 100l. for a year, within three calendar months next after the day or time whereon half a year's intereſt ſhall from time to time become due and payable, then and in ſuch caſe, he the ſaid *F. R.* his executors and adminiſtrators, ſhall and will accept and take intereſt for the ſaid ſum of ——, at the ſaid rate of —— for 100l. for a year, for every ſuch half year for which ſuch intereſt ſhall be ſo paid to him or them within the ſaid three calendar months commencing as aforeſaid. AND WHEREAS by indenture bearing date the — day of — in the year of our Lord —, and made, or expreſſed to be made between the right reverend father in God, the lord biſhop of —, dean of the cathedral church of —, in *London*, and the chapter of the ſame church, of the one part, and the ſaid *B. J.* of the other part, the ſaid dean and chapter for the conſiderations therein mentioned, did demiſe, leaſe, and to farm let, unto the ſaid *B. J.* all thoſe two meſſuages, tenements, or farm-houſes, with the lands and appurtenances thereunto belonging, commonly called or known by the ſeveral names of boxes, and gooſes, farms, ſituate, lying, and being in the ſeveral pariſhes of —— and ——, in the county of ——, as the ſame were then in the poſſeſſion or occupation of the ſaid *B. J.* together with all ways, paſſages, lights, eaſements, profits, commodities, advantages, hereditaments, and appurtenances, whatſoever, to the ſaid meſſuages, tenements, or farms, lands, and premiſes, ſo belonging, or in any wiſe appertaining, except and always reſerved

Recital of indentures of leaſe from biſhop of ---, of two meſſuages, &c.

out of the ſaid demiſe and leaſe, unto the dean and chapter, and their ſucceſſors and aſſigns, all and all manner of timber trees, and other trees whatſoever, then ſtanding, growing, or being, or which thereafter ſhould ſtand, grow, or be, during the term thereby leaſed, in or upon the premiſes, or any part thereof, with free liberty of ingreſs, egreſs, and regreſs, for the ſaid dean and chapter, their ſucceſſors and aſſigns, and their ſervants and workmen, with cattle, cart, and carriages, into and from the ſaid premiſes, to fell, cut down, ſaw forth, hew out, cart, and carry away the ſame, at all reaſonable times during the term thereby demiſed, to hold the ſame, (except as before excepted,) unto the ſaid *B. J.* his executors, adminiſtrators, and aſſigns, from the feaſt-day of ——, then laſt paſt, for and during, and unto the full end and term of 21 years, from thence next enſuing, and fully to be complete and ended, under and ſubject to ſuch rents, covenants, and agreements, as are thereby and therein reſerved and contained, on the part of the ſaid *B. J.* his executors, adminiſtrators, and aſſigns, to be paid, done, and performed. NOW THIS INDENTURE WITNESSETH, that for and in conſideration of the ſaid ſum of ——, ſo advanced and paid by the ſaid *F. R.* at the requeſt, and by the direction of the ſaid *S. R.* and *B. I.* as aforeſaid, and for the better and more effectual ſecuring the re-payment of the ſaid ſum of ——, together with intereſt for the ſame, unto the ſaid *F. R.* his executors, adminiſtrators, and aſſigns, according to the true intent and meaning of the ſaid indenture of re-

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Except wood, with liberty to carry, &c.

to the ſaid B. I.

for 21 years,

ſubject to the covenants therein mentioned.

This indenture witneſſeth, that in conſideration of the ſaid ſum of ---, &c.

and for more effectually ſecuring thereof.

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leaſe, of even date herewith, and alſo in conſideration of the ſum of 10s. of lawful money of *Great Britain*, to the ſaid *B. J.* in hand, at or immediately before the ſealing and delivery of theſe preſents, paid by the ſaid *F. R.* the payment and receipt whereof is hereby acknowledged. He the ſaid *B. J.* hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer, and ſet over, unto the ſaid *F. R.* his executors, adminiſtrators, and aſſigns, all and every the meſſuages, farms, lands, tenements, and premiſes, which in and by the before in part recited indenture of the — day of ——, were demiſed, or leaſed, or mentioned, or intended to be demiſed or leaſed for the aforeſaid term of 21 years, with their and every of their appurtenances, and all the eſtate, right, title, intereſt, term of years yet to come, and unexpired property, poſſeſſion, claim, and demand, whatſoſoever, of him the ſaid *B. J.* of, into, or out of the ſaid meſſuages, farms, lands, tenements, and premiſes, and every of them, and every part and parcel thereof. TO HAVE AND TO HOLD all the ſaid meſſuages, farms, lands, tenements, and premiſes, hereby aſſigned, or mentioned, or intended ſo to be, with their and every of their appurtenances, unto the ſaid *F. R.* his executors, adminiſtrators, and aſſigns, from henceforth, for and during all the reſt, reſidue, and remainder, of the ſaid term of 21 years, which is now to come and unexpired, under and ſubject to the rents, covenants, and agreements, by and in the aforeſaid indenture of the — day of ——, reſerved and contained, which

And alſo in conſideration of the further ſum of --- to the ſaid B. I. in hand paid,

the ſaid B. I. hath bargained ſold, &c.

ſaid leaſehold eſtates.

To hold the ſame unto the ſaid F. R. &c.

during the reſidue of the ſaid term.

ought hereafter on the tenant, leſſee, or aſſignee's part to be paid, kept, obſerved, and performed. PROVIDED always, and it is hereby expreſsly declared and agreed, by and between the ſaid parties hereto, and the true intent and meaning of them, and of theſe preſents, nevertheleſs, is that if the ſaid *B. J.* his heirs, executors, adminiſtrators, or aſſigns, do, and ſhall pay, or cauſe to be paid, the aforeſaid principal ſum of ——, together with the intereſt, from henceforth to grow and become due for the ſame, without any deduction or abatement whatſoever, according to the true intent and meaning of the ſaid indenture of releaſe of even date herewith, then, and in ſuch caſe, he the ſaid *F. R.* his executors, adminiſtrators, or aſſigns, ſhall and will, after ſuch payment ſhall be ſo made as aforeſaid, upon the requeſt, and at the coſts and charges of the ſaid *B. J.* his executors, adminiſtrators, or aſſigns, aſſign the ſaid meſſuages, farms, lands, tenements and premiſes, with their appurtenances, unto the ſaid *B. J.* his executors, adminiſtrators, or aſſigns, for and during the reſt, reſidue, and remainder of the ſaid term of —— years, which ſhall be then to come and unexpired, or as he, or they ſhall direct or appoint, free from all incumbrances whatſoever, made, done, or committed by the ſaid *F. R.* his executors, adminiſtrators, or aſſigns, or any of them, ſo as for the doing thereof, he, they, or any of them, be not compelled to go or travel from the place or places of his, their, or any of their uſual abode or dwelling. AND the ſaid *B. J.* doth hereby for himſelf, his heirs, executors admini-

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Proviſo for redemption.

Covenant that the ſame is a good unavoid-

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able leaſe and demiſe, unforfeited and unſurrendered.

ſtrators, and aſſigns, covenant, promiſe, and agree to and with the ſaid *F. R.* his executors, adminiſtrators, and aſſigns, in manner following, (that is to ſay) that the ſaid hereinbefore in part recited indenture of the —— day of ——, is at the time of the ſealing and delivering of theſe preſents, a good and unavoidable leaſe and demiſe in the law of the ſaid meſſuages, farms, lands, tenements, and premiſes hereby aſſigned or mentioned, or intended ſo to be, and now is in full force, unforfeited and unſurrendered, and not any ways made void or voidable, and that the ſaid *B. J.* now hath in himſelf,

and that the ſaid B. J. hath power to aſſign the ſame,

good right, full power, and lawful and abſolute authority, to bargain, ſell, and aſſign, the ſaid meſſuages, farms, lands, tenements, and premiſes hereby aſſigned, or mentioned, or intended ſo to be, with their appurtenances unto the ſaid *F. R.* his executors, adminiſtrators, and aſſigns, for and during the now reſidue and remainder of the ſaid term of —— years, in ſuch manner as aforeſaid. And alſo, that he the ſaid *F. R.* his executors, adminiſtrators, and aſſigns, ſhall and may from time to time and at all times from and after default, ſhall be made of, or in payment of the ſaid ſum of ——, and intereſt, or either of them, or any part of them, or either of them, contrary to the true intent and meaning of the ſaid indenture of releaſe, of even date herewith, and of theſe preſents peaceably and quietly enter into, and have, hold, occupy, poſſeſs and enjoy all the ſaid meſſuages, farms, lands, tenements, and premiſes hereby aſſigned or mentioned, or intended ſo to be, with their and every of their appurtenances,

and that the ſaid F R. on default of payment as aforeſaid, may enter, &c.

and receive and take the rents, iſſues, and profits thereof, to his and their own uſe and uſes, for and during all the then reſidue and remainder of the ſaid term of —— years, without the let, ſuit, trouble, denial, eviction, or interruption, of, from, or by the ſaid *B. J.* his executors, adminiſtrators, or aſſigns, or any other perſon or perſons whomſoever, free and clear, and freely and clearly, and abſolutely acquitted, exonerated, and diſcharged, as by the ſaid *B. J.* his heirs, executors, or adminiſtrators, well and ſufficiently ſaved harmleſs, and kept indemnified, of, from, and againſt all and all manner of former and other gifts, grants, bargains, ſales, leaſes, aſſignments, mortgages, ſurrender, forfeitures, and re-entries, and arrears of rent, and of, from, and againſt all other eſtates, titles, troubles, charges, and incumbrances whatſoever, had, made, done, committed, executed or ſuffered by the ſaid *B. I.* or any other perſon or perſons whomſoever, ſave and except the rents and covenants, reſerved and contained by and in the ſaid hereinbefore in part recited indenture of leaſe, which on the tenant or leſſee's part ſhall or ought from henceforth to be paid, kept obſerved, and performed. AND further, that he the ſaid *B. J.* and all and every other perſon or perſons, whomſoever, lawfully or equitably claiming or to claim, any eſtate, term, or intereſt, into, or out of the ſaid meſſuages, farms, lands, tenements and premiſes hereby aſſigned, or mentioned, or intended ſo to be, or any part or parts thereof, by, from, through, under, or in truſt for him, ſhall and will from time to time and at all times after default

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free from incumbrances.

For further aſſurance.

MORTGAGE. shall be made, in payment of the said sum of —— and interest, or either of them, or any part of them, or either of them, contrary to the true intent and meaning of the said indenture of release of even date herewith, and of these presents, upon the request of the said *F. R.* his executors, administrators or assigns, or any of them, but at the costs and charges of the said *B. J.* his heirs, executors, or administrators, make, do, and execute, or cause, or procure to be made, done, and executed, all and every such further and other lawful and reasonable acts, deeds, matters, things, conveyances, assignments, and assurances, in the law, whatsoever, for the further and better, more perfect, and absolute assigning and assuring the said messuages farms, lands, tenements, and premises, hereby assigned or mentioned, or intended so to be, with their and every of their appurtenances, unto the said *F. R.* his executors, administrators, and assigns, for and during all the rest, residue, and remainder of the said term of 21 years, which shall be then to come and unexpired, as by the said *F. R.* his executors, administrators or assigns, or his, their, or any of their counsel learned in the law, shall be reasonably devised, or advised and required. PROVIDED also, and it is hereby declared and agreed by and between the said *F. R.* and *B. J.* that it shall and may lawful to and for the said *B. J.* his executors and administrators, peaceably and quietly to have, hold, occupy, possess, and enjoy, all and every the said messuages, farms, lands, tenements, and premises, hereby assigned, or mentioned, or intended so to be,

Proviso that mortgager shall enjoy until default of payment.

with their and every of their appurtenances, and to receive and take the rents, iſſues, and profits thereof, to his and their own uſe and uſes, until default ſhall be made in payment of the aforeſaid ſum of ——, and intereſt, or ſome part thereof, on or at the days or times in the proviſo contained in the aforeſaid indenture, bearing even date herewith, mentioned, or appointed for payment thereof, without any let, ſuit, trouble, denial, or interruption of, from, or by the ſaid *F. R.* his executors, adminiſtrators, or aſſigns, or any other perſon or perſons whomſoever, lawfully claiming or to claim by, from, or under him, them, or any of them. In witneſs, &c. MORTGAGE.

Aſſignment of 1000 *Years Term, as to two-fifths of Premiſes for ſecuring a Sum and Intereſt, being Part of the Portions of Children under a Settlement; with an Agreement of Jointreſs to poſtpone her Jointure; and ſpecial Covenants.*

THIS INDENTURE of five parts, made, &c. Between the right hon. *E.* earl of ——, *C. C.* eſquire, and *Y. S. R.* clerk, executors of the laſt will and teſtament of *Q.* lord —— of the firſt part; ſir *B.* of —, in the county of ——, baronet, of the ſecond part; *B. M.* eſquire, the brother of *F. B.* ſpinſter, the eldeſt ſiſter of the ſaid ſir *B.* of the third part; the right honourable lady *B. F.* the widow and relict of ſir *B. R.* baronet, deceaſed, of

MORTGAGE. the fourth part; the honourable *A. E. I.* of —, in the county of ——, eſquire, of the fifth part.

Recital of marriage ſettlement.

WHEREAS by certain indentures of leaſe and releaſe, bearing date reſpectively, the —— and —— days of ——, which was in the year of our Lord ——, and made or expreſſed to be made, between the ſaid ſir *B. R.* of ——, aforeſaid, baronet, ſince deceaſed, the father of the ſaid ſir *B. I. B. M.* and *B. F.* parties hereto, of the firſt part, the right honourable *G.* earl of —, the right honourable *M. G.* eſquire, commonly called lord *S.* ſon and heir apparent of the ſaid *G.* earl of ——, the right honourable lady *M. F.* one of the daughters of the ſaid *G.* earl of ——, of the ſecond part, the right hon. *R.* earl of —, knight of the moſt noble order of the garter, and the honourable ſir *S. T.* knight of the honourable order of the bath, of the third part, and *A. T.* of —— in the county of ——, eſquire, and *A. H.* of ——, eſquire of the fourth part, [reciting that a marriage was then intended and which was ſoon afterwards had and ſolemnized between the ſaid ſir *B. R.* and *M. F.* and that he the ſaid *G.* earl of ——, had agreed to give unto the ſaid ſir *B. R.* the clear ſum of ——, as, and for the marriage portion of his daughter, the ſaid lady *M. F.* and that he the ſaid ſir *B. R.* had in conſideration of the ſaid £——, agreed to ſettle and aſſure unto the ſaid lady *M. F.* for and during the term of her natural life, one yearly rent-charge or annual ſum of ——, free from all taxes, and deductions, and to make ſuch proviſion for the iſſue of the ſaid marriage as therein and hereinafter is particularly mentioned.] It is witneſſed, that in

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conſideration of the ſaid marriage, and of the ſaid ſum of ——, to him the ſaid ſir *B. R.* paid by the ſaid *G.* earl of ——, and for the portion or fortune of his ſaid daughter, and for other the conſiderations therein mentioned, he the ſaid ſir *B. R.* did grant, and convey unto the ſaid *G.* earl of ——, and *G.* lord ——, and to their heirs, among other hereditaments, all that the manor or lordſhip, or reputed manor or lordſhip of —, in the ſaid county of ——, and all and every the meſſuages, lands, tenements, mills, rents, courts-leet, baron view of frankpledge, ſervices, liberties, privileges, franchiſes, advantages, commons, common of paſture, ways, waters, water-courſes, eaſements, profits, commodities, hereditaments, and appurtenances whatſoever, to the ſaid manor of ——, belonging or appertaining, or reputed to be part or parcel thereof, and alſo all and every other the manors, meſſuages, lands, fee-farm, or other rents or hereditaments whatſoever, of him the ſaid ſir *B. R.* or wherein he or any other perſon or perſons, in truſt for him, had, or might have any eſtate of inheritance, or freehold either in law or in equity, in poſſeſſion, reverſion, remainder, or expectancy, in the town, pariſh, or precincts of —— aforeſaid, in the county of ——, with the appurtenances thereto belonging, (the perpetual advowſon and right of patronage of the pariſh church of ——, aforeſaid only excepted,) which ſaid premiſes ſo granted, are more particularly mentioned and deſcribed in the ſaid indenture of releaſe, now in recital, to hold the ſaid manor or lordſhip, or reputed manor or lordſhip of ——, meſſuages, lands, tene-

Whereby ſettled eſtate granted & conveyed

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ments, and hereditaments, with the rights, members, and appurtenances thereto belonging, unto the ſaid *G.* earl of ——, and *G.* lord ——, and their heirs, to the uſe of the ſaid ſir *B. R.* and his heirs, until the ſaid marriage ſhould be had, and after the ſolemnization thereof, to and for the uſes, intents, and purpoſes, and ſubject to the proviſos and agreements thereinafter declared, and hereinafter in part mentioned, of and concerning the ſame, (that is to ſay) to the uſe of the ſaid ſir *B. R.* and his aſſigns, for the term of his life, without impeachment, of, or for any manner of waſte, with remainder to the ſaid *G.* earl of ——, and *G.* lord ——, and their heirs, during the life of the ſaid ſir *B. R.* in truſt, to preſerve contingent remainders, and from and after the deceaſe of the ſaid ſir *B. R.* to and for the uſe, intent, and purpoſe, that the ſaid lady *F.* and her aſſigns, in caſe ſhe ſhould ſurvive her ſaid then intended huſband, (as the caſe hath happened) might during her life, receive, and take out of the rents, iſſues, and profits of the ſaid premiſes, the yearly rent-charge or ſum of —, clear of all deductions, as and for her jointure, and the ſame to be in lieu and bar of her dower and thirds at common law, payable in manner therein mentioned, with ſuch powers and remedies for enforcing the payment and recovering all arrears thereof, as are thereby given, and thereby mentioned, and from and after the deceaſe of the ſaid ſir *B. R.* and ſubject to the ſaid yearly rent charge of £——, payable as aforeſaid to the uſe of the ſaid *R.* earl of ——, ſir *S. I. A. T.* and *A. H.* and the ſurvivors and ſurvivor of them, and the

To truſtees to the uſe of huſband till marriage, then to heirs for life,

then to the intent that wife may receive — per ann. jointure,

executors, adminiſtrators, and aſſigns, of ſuch ſurvivor, for the term of —— years, then next and immediately following, and fully to be complete and ended, without impeachment of, or for any manner of waſte, upon ſuch truſts, and to and for ſuch uſes, intents, and purpoſes as are therein and hereinafter declared and expreſſed, of, and concerning the ſame; remainder to the firſt and other the ſon and ſons of the body of the ſaid ſir *B. R.* on the body of the ſaid lady *M. F.* to be begotten ſeverally and ſucceſſively in tail male, and in default of ſuch iſſue, ſubject to the term of —— years, to the ſaid ſir *B. R.* his heirs and aſſigns, for ever, by which ſaid indenture of releaſe, now in recital, it was declared, that the ſaid term of —— years, was ſo limited, to the ſaid truſtees, upon truſt, to levy all arrears which may be due and owing to the ſaid lady *M. F.* by reaſon of the aforeſaid rent charge of £——, ſo made payable to her as aforeſaid, then upon the truſts following, (that is to ſay) in caſe there ſhould be a ſon and heir apparent, and alſo one or more other child or children, whether daughter or daughters, younger ſon or ſons of the ſaid ſir *B. R.* on the body of the ſaid lady *M. F.* to be begotten, either born in his life time, or in due time after his deceaſe, they the ſaid *R.* earl of ——, ſir *I. S.* *A. T.* and *A. H.* and the ſurvivors and ſurvivor of them, and the executors, and adminiſtrators of ſuch ſurvivor, ſhould by, with, and out of the rents, iſſues, and profits, of the premiſes compriſed in the ſaid term of — years, or by mortgage, ſale, or other diſpoſition of the ſame, or of a

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then for a term of — years to ſecure jointure and younger children's portions.

MORTGAGE. competent part thereof, for all or any part of the ſaid term of — years, or by any of the ways and means aforeſaid, or any other ways or means which they in their diſcretion ſhould think fit, levy and raiſe the principal ſum of —, for the portion or portions of ſuch younger child or children, to be paid at ſuch times, and in ſuch ſhares, proportions, and manner, as the ſaid ſir *B. R.* by any deed or deeds, to be by him duly executed, or by his laſt will and teſtament, in writing, to be by him duly ſigned and publiſhed in the preſence of two or more credible witneſſes, ſhould direct or appoint; and for want of ſuch direction or appointment, to be equally divided between or among them, (if more ſuch daughters or younger ſons than one,) ſhare and ſhare alike, and to be paid in manner therein and hereinafter mentioned, (that is to ſay,) to each ſuch daughter at her age of 21 years, or day of marriage, which ſhould firſt happen, and to each ſuch younger ſon at his age of 21 years, or to be ſooner advanced for his preferment or benefit, if the ſaid truſtees, or the ſurvivor of them, his executors or adminiſtrators, ſhould think fit, and if any ſuch daughter ſhould have attained the age of 21 years, or be married, or any ſuch younger ſon ſhould have attained his age of 21 years, or be married, or any ſuch younger ſon ſhould have attained his age of 21 years, in the life-time of the ſaid ſir *B. R.* then the portion or portions of ſuch daughter or daughters ſo attaining ſuch age, or marrying, as aforeſaid, and of ſuch younger ſon and ſons ſo attaining ſuch age, or ſo much thereof as ſhould

not have been ſooner applied as aforeſaid, ſhould be raiſed and paid in ſix calendar months next after the death of the ſaid ſir *B. R.* with intereſt for the ſame after the rate of £— for every ſum of ——, from the day of his death, and in caſe any ſuch daughter ſhould happen to die before ſhe ſhould attain her ſaid age of 21 years, and unmarried, or any ſuch younger ſons ſhould depart out of this life before he ſhould attain his age of 21 years, then the portion of him or her ſo dying, or ſo much thereof as ſhould not have been ſooner advanced, ſhould go to ſuch ſurviving younger child or children, and be equally divided between or among them, if more than one, ſhare and ſhare alike, and be payable when and as his, or her, or their original portion or portions ſhould become payable, and upon further truſt, that the ſaid truſtees, and the ſurvivors, or the ſurvivor of them, and the executors and adminiſtrators of ſuch ſurvivor, ſhould and might, by, with, and out of the united profits of the ſaid premiſes, levy and raiſe ſuch maintenance in the mean time, for ſuch daughters and younger ſons, from the death of the ſaid ſir *B. R.* until their reſpective portions ſhould become due and payable, and it was further provided, that in caſe the ſaid ſir *B. R.* ſhould in his life time give to any of his ſaid daughters or younger ſons, either for their reſpective preferment and advancement in marriage, or otherwiſe, any ſum or ſums of money, and by any deed or writing under his hand and ſeal, declare the ſame to be for and towards the portions thereby provided for them, that then

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MORTGAGE. competent part thereof, for all or any part of the ſaid term of — years, or by any of the ways and means aforeſaid, or any other ways or means which they in their diſcretion ſhould think fit, levy and raiſe the principal ſum of —, for the portion or portions of ſuch younger child or children, to be paid at ſuch times, and in ſuch ſhares, proportions, and manner, as the ſaid ſir *B. R.* by any deed or deeds, to be by him duly executed, or by his laſt will and teſtament, in writing, to be by him duly ſigned and publiſhed in the preſence of two or more credible witneſſes, ſhould direct or appoint; and for want of ſuch direction or appointment, to be equally divided between or among them, (if more ſuch daughters or younger ſons than one,) ſhare and ſhare alike, and to be paid in manner therein and hereinafter mentioned, (that is to ſay,) to each ſuch daughter at her age of 21 years, or day of marriage, which ſhould firſt happen, and to each ſuch younger ſon at his age of 21 years, or to be ſooner advanced for his preferment or benefit, if the ſaid truſtees, or the ſurvivor of them, his executors or adminiſtrators, ſhould think fit, and if any ſuch daughter ſhould have attained the age of 21 years, or be married, or any ſuch younger ſon ſhould have attained his age of 21 years, or be married, or any ſuch younger ſon ſhould have attained his age of 21 years, in the life-time of the ſaid ſir *B. R.* then the portion or portions of ſuch daughter or daughters ſo attaining ſuch age, or marrying, as [illegible] of ſuch younger ſon and ſons ſo [illegible] age, or ſo much thereof as ſhould

not have been ſooner applied as aforeſaid, ſhould be raiſed and paid in ſix calendar months next after the death of the ſaid ſir *B. R.* with intereſt for the ſame after the rate of £— for every ſum of ——, from the day of his death, and in caſe any ſuch daughter ſhould happen to die before ſhe ſhould attain her ſaid age of 21 years, and unmarried, or any ſuch younger ſons ſhould depart out of this life before he ſhould attain his age of 21 years, then the portion of him or her ſo dying, or ſo much thereof as ſhould not have been ſooner advanced, ſhould go to ſuch ſurviving younger child or children, and be equally divided between or among them, if more than one, ſhare and ſhare alike, and be payable when and as his, or her, or their original portion or portions ſhould become payable, and upon further truſt, that the ſaid truſtees, and the ſurvivors, or the ſurvivor of them, and the executors and adminiſtrators of ſuch ſurvivor, ſhould and might, by, with, and out of the united profits of the ſaid premiſes, levy and raiſe ſuch maintenance in the mean time, for ſuch daughters and younger ſons, from the death of the ſaid ſir *B. R.* until their reſpective portions ſhould become due and payable, and it was further provided, that in caſe the ſaid ſir *B. R.* ſhould in his life time give to any of his ſaid daughters or younger ſons, either for their reſpective preferment and advancement in marriage, or otherwiſe, any ſum or ſums of money, and by any deed or writing under his hand and ſeal, declare the ſame to be for and towards the portions thereby provided for them, that then MORTGAGE.

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ſuch daughters or younger ſons ſhould, after the deceaſe of the ſaid *R. B.* receive only ſuch further portion as, together with the portion ſo advanced by the ſaid ſir *B. R.* in his life time, ſhould complete the portion thereby provided for him or her reſpectively, and no more; and it was thereby alſo further provided, that in caſe there ſhould be no ſuch daughter or daughters, younger ſon or ſons, or being ſuch, all of them ſhould happen to die under the age of 21 years, and the daughters unmarried, or in caſe the perſon to whom the next eſtate of inheritance expectant on the determination of the ſaid term of —— years ſhould belong, ſhould pay unto the aforeſaid truſtees, and to the ſurvivors and ſurvivor of them, his executors or adminiſtrators, or to his or their good liking or ſecurity, to be paid the portion or portions therein before provided for ſuch daughters or younger ſons, or ſo much thereof as ſhould be then remaining unpaid, the ſaid lady *M. F.* being then dead, and all the arrears of her rent charge, and of the ſaid maintenance and the charges of the ſaid truſtees being firſt ſatisfied, then the term of —— years to ceaſe, as by the ſaid in part recited indenture of releaſe, relation being thereunto had, may fully appear.

Recital of the ſaid B. R's death, and his leaving children, all of whom have attained 21.

AND whereas the ſaid ſir *B. R.* departed out of this life ſome time in the month of —— now laſt paſt, leaving iſſue the ſaid ſir *B. I. B. M.* and *B. F.* parties hereto, and one other daughter, namely, *B. C.* ſpinſter, who have all attained their reſpective ages of 21 years, and no other younger child.

Recital of the — years term, became veſted

AND whereas the aforeſaid term of —— years, became veſted in the ſaid *A.* by ſurvivor-

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ſhip, and he the ſaid *A.* departed out of this life on or about the — day of —, which was in the year of our Lord ——, having firſt duly made, ſigned, and publiſhed his laſt will and teſtament in writing, bearing date the —— day of ——, and having conſtituted and appointed ———, ſole executrix thereof, and ſhe the ſaid ———, hath ſince his death duly proved his ſaid will, in the prerogative court of the archbiſhop of ——, and taken upon herſelf the burthen and execution thereof, whereby the ſaid term of —— years, or the reſidue thereof yet to come and unexpired, is now veſted in her executors, adminiſtrators, and aſſigns. AND whereas they the ſaid truſtees have not nor hath any of them, raiſed any part of the ſaid ſum of ——, ſo ſecured and provided for the portions of the daughters and younger ſons of the ſaid ſir *B. R.* on the body of the ſaid lady *M. F.* begotten as aforeſaid, nor hath he the ſaid ſir *B. R.* either by deed or will, made any appointments or appointment of the whole or any part of the ſaid ſum of —— ſo ſecured and provided as aforeſaid, by reaſon and means whereof they the ſaid *B. M. B. I.* and *B. C.* are by virtue of and under the aforeſaid in part recited indenture of releaſe, entitled to equal parts, ſhares, and proportions of the ſaid ſum of ——. AND whereas the ſaid *B. M.* having an immediate occaſion for the ſum of —— being the part or ſhare of him the ſaid *B. M.* of the ſaid ſum of ——, and the ſaid *B. F.* having alſo preſent occaſion for the ſum of ——, being part of her ſhare of the ſaid ſum of ——, ſo ſecured and provided as aforeſaid, which ſaid ſeveral

by ſurvivorſhip, who made his will and appointed executors.

Recital that the truſtees have not raiſed any part of the £—.

Contract for raiſing part of ſaid portions on mortgage of a proportional part of ſaid premiſes for ſaid term.

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Indenture witneſſeth.

at or before the ſealing and delivery of theſe preſents, the receipt whereof ſhe the ſaid *A. I. B.* doth alſo hereby acknowledge, ſhe the ſaid — at the ſpecial inſtance and requeſt, and by the direction and appointment of the ſaid ſir *B. I. B. M.* and *B. F.* teſtified by their being made parties to, and ſeverally, ſealing and delivering theſe preſents, hath granted, bargained, ſold, aſſigned, transferred and ſet over, and by theſe preſents doth grant, bargain, ſell, aſſign, transfer, and ſet over, and they the ſaid ſir *B. I. B. M.* and *B. F.* have and each of them reſpectively hath granted, ratified, and confirmed, and by theſe preſents do and each of them reſpectively doth grant, ratify, and confirm unto him the ſaid *A. I. E.* his executors, adminiſtrators and aſſigns, two undivided fifth-parts, (the whole in five equal parts being divided), of and in all that the aforeſaid manor, or lordſhip, or reputed manor, or lordſhip of —, in the ſaid county of ——, and of, and in all and every the meſſuages, lands, tenements, mills, rents, courts-leet, courts-baron, view of frankpledge, ſervices, liberties, privileges, franchiſes, advantages, commons, common of paſture, ways, waters, eaſements, profits, commodities, hereditaments, and appurtenances whatſoever, to the ſaid manor belonging or appertaining, or reputed to be part or parcel thereof, and alſo, of and in all and every other, the manors, meſſuages, fee, farm, or other rents, or hereditaments whatſoever, late of the ſaid ſir *B. R.* or wherein, he or any other perſon or perſons in truſt for him, had any eſtate, inheritance or free-

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Aſſignment and confirmation of

two-fifth parts of the premiſes.

MORTGAGE. hold in either, in law or equity, in poſſeſſion, reverſion, remainder, or expectancy in the town, pariſh, or precinct of ——, aforeſaid, in the ſaid county of ——, the perpetual avowſon and right of patronage of the pariſh church of ——, aforeſaid only excepted; and alſo, of and in all and ſingular, other the hereditaments, which in and by the ſaid hereinbefore recited indenture of releaſe were granted, and releaſed, and of, and in their appurtenances, and in all the eſtate, right, title, intereſt, term and terms of years, uſe, truſt, property, claim, and demand whatſoever, both at law and in equity of them the ſaid *B. M.* and *B. F.* and of each, and every of them, of, in, and to, from, or out of the ſaid two undivided fifth-parts hereby granted, bargained, ſold, aſſigned, ratified, and confirmed, or intended ſo to be, and every part and parcel thereof, with their reſpective rights, members, and appurtenances together with all deeds, evidences and writings of, touching or concerning the ſaid hereby aſſigned and confirmed hereditaments and premiſes, or any part or parcel thereof, now in the cuſtody or power of them the ſaid ſir *B. I. B. M.* and *B. F.* or any one, or more of them, or which they or any one, or more of them can come by without any action at law, or ſuit in equity: To have and to hold the ſaid two undivided fifth-parts hereby bargained, ſold, and aſſigned, of and in the ſaid manor, or lordſhip, or reputed manor or lordſhip, of ——, and of and in the meſſuages, lands, tenements, and all, and ſingular other the premiſes hereinbefore mentioned, and every part, and parcel thereof, with

To hold.

their and every of their reſpective appurtenances unto the ſaid *A. E. I.* his executors, adminiſtrators and aſſigns, from the day next, before the day of ——, for and during all the reſt, reſidue, and remainder now to come and unexpired of the ſaid term of —— years, in and by the aforeſaid indenture of releaſe of the —— day of ——, in the year ——, created and limited as aforeſaid, ſubject nevertheleſs to the proviſo or condition in theſe preſents next hereinafter mentioned, or contained for redemption of the ſaid premiſes, that is to ſay, Provided always, and upon this ſpecial condition nevertheleſs, and it is hereby declared and agreed upon, by, and between the ſaid parties to theſe preſents, that if the ſaid ſir *B. I.* or *B. M.* or *B. F.* according to the reſpective proportions by them received of the ſaid ſum of ——, or any of them, or the heirs or aſſigns of the ſaid ſir *B. I.* or the reſpective executors, adminiſtrators, or aſſigns of the ſaid *B. M.* and *B. F.* proportionably as aforeſaid, or any other perſon or perſons, by virtue of, or under any of the limitations contained in the ſaid hereinbefore in part recited indenture of ſettlement of the — day of ——, in the year of our Lord ——, or by virtue of, or under any ſettlement, or aſſurance now made and executed, or hereafter to be made and executed, ſhall or may become intitled to the reverſion or remainder, expectant upon the determination of the ſaid term or eſtate of —— years, of the ſaid two undivided fifth-parts, (the whole into five equal parts, being divided as aforeſaid), of all the hereditaments and premiſes ſo limited in uſe to the ſaid *K. E.* of

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for the remainder of the term.

Proviſo for redemption on re-payment of ſaid ſums.

MORTGAGE. ——, ſir *S. I. A. I.* and *A. H.* their executors, adminiſtrators, and aſſigns, as aforeſaid, ſhall and do well and truly pay or cauſe to be paid unto the ſaid *A. I. E.* his executors, adminiſtrators, or aſſigns, the full and juſt ſum of —— of lawful money of *Great Britain*, (being the ſaid ſeveral ſums of —— and ——, making together the principal ſum of ——, and the ſum of ——, for one year's intereſt thereof, at or after the rate of £—— for every ſum of ——, thereof by the year, at or before the days or times, and at the place, and in manner hereinafter appointed, for the payment thereof, (that is to ſay), the ſum of ——, part thereof, on the — day of ——, now next enſuing, the date of theſe preſents, and the further ſum of ——, being the reſidue thereof in full payment thereof, on the —— day of ———, next following, which will be in the year of our Lord ——, and the ſaid ſeveral payments to be made at and in the common dining hall of ——, in the county of ——, between the hours of — and —— of the clock, in the forenoon of the ſaid days, or times without making any deduction, defalcation, or abatement whatſoever, out of the ſaid principal ſums of ——, and ——, or the intereſt thereof, or any part thereof reſpectively, for or in reſpect of any taxes, charges, aſſeſſment, rates, duties, or impoſitions, whatſoever already taxed, charged, aſſeſſed or impoſed, or hereafter to be taxed, charged, aſſeſſed, or impoſed by authority of parliament or otherwiſe, howſoever upon the ſaid hereditaments and premiſes hereby aſſigned and confirmed as aforeſaid, or any part or parcel thereof, or the tenants or occupiers thereof, or upon the

MORTGAGE.

ſaid principal ſums of ——, and ——, or the intereſt thereof, or any part thereof reſpectively, or on the ſaid *A. E. I.* his executors, adminiſtrators or aſſigns, for or in reſpect of the ſaid monies and premiſes, or either or any of them, or for or in reſpect of any other matter, cauſe or thing relating to, or concerning the ſame then and from thenceforth, and immediately after ſuch payments ſhall have been made as aforeſaid, unto the ſaid *A. E. I.* his executors, adminiſtrators, or aſſigns, the ſaid aſſignment, transfer, and confirmation by this preſent indenture made, and alſo, this preſent indenture ſhall ceaſe, determine, and be utterly void to all intents and purpoſes whatſoever; and they the ſaid ſir *B. I. B. M.* and *B. F.* for themſelves ſeverally and reſpectively, and for their ſeveral and reſpective heirs, executors and adminiſtrators, do, and each of them doth hereby ſeverally, and not jointly, or the one for the other, or others of them, covenant, promiſe and agree to, and with the ſaid *A. E. I.* his executors, adminiſtrators, and aſſigns, in manner and form following, (that is to ſay) that the principal ſum of —, and —and the intereſt thereof, at the rate aforeſaid, ſhall be well, truly punctually, and faithfully paid unto the ſaid *A. E. I.* his executors, adminiſtrators and aſſigns, when and as the ſame ſhall become due, and payable at the times and in the place and in ſuch manner and form as the ſame is and are in the proviſo hereinbefore contained, limited, or appointed for payment thereof, according to the true intent and meaning of theſe preſents; and alſo, that they the ſaid ſir *B. I. B. M.* and *B. F.* ſome or one of them

Covenant for payment of the money. *See Marginal note poſt, p. 415.*

Covenant for the title.

MORTGAGE. have or hath in themſelves, himſelf or herſelf, good right, full power, and lawful and abſolute authority to grant, bargain, ſell, aſſign, transfer, ratify, and confirm the ſaid hereditaments and premiſes hereby aſſigned and confirmed, with the appurtenances for and during all the reſt, reſidue, and remainder of the ſaid term of — years, now to come and unexpired, unto the ſaid *A. E. I.* his executors, adminiſtrators, and aſſigns, in manner aforeſaid, and ſubject to redemption as aforeſaid, according to the true intent and meaning of theſe preſents.

and that after default in payment, the mortgagee may enter,

AND further, that from and immediately after default ſhall happen to be made of or in payment of the ſaid ſum of ——, or of any part thereof, contrary to the ſaid aforeſaid proviſo and covenant for payment thereof, hereinbefore contained, and the true intent and meaning of theſe preſents is, that it ſhall and may be lawful to and for the ſaid *A. E. I.* his executors, adminiſtrators, and aſſigns, peaceably and quietly to enter into, have, hold, poſſeſs, occupy, and enjoy the ſaid ſeveral hereditaments and premiſes hereby aſſigned and confirmed, or intended ſo to be, with their and every of their appurtenances, and the rights, iſſues, and profits thereof, to have, receive, and take to his and their own uſe, and without any the lawful, let, ſuit, trouble, hindrance, interruption, claim or demand whatſoever, of or by the ſaid ſir *B. I. B. M.* and *B. F.* or any of them, their, or any of their heirs, executors, adminiſtrators, or aſſigns, of, or by any other perſon or perſons whomſoever, and that free and clear, and freely and clearly and abſolutely, acquitted, exonerated, and diſcharged, or

and hold without interruption,

otherwiſe, by the ſaid *B. M.* and *B. F.* or their reſpective executors, adminiſtrators, or aſſigns, well and ſufficiently ſaved, defended, kept harmleſs and indemnified, of, from, and againſt, all, and all manner of former and other gifts, grants, bargains, ſales, mortgages, jointures, dowers, wills, uſes, intails, legacies, annuities, debts, judgments, decrees, rents, and arrears of rent, titles, troubles, charges, and incumbrances whatſoever. AND moreover that from and immediately after default ſhall happen to be made of or in paymenr of the ſaid ſum of —, or of any part thereof, contrary to and in breach of the proviſo and covenant hereinbefore made, appointed, and contained for payment thereof, that then, they, the ſaid lady *E.* ſir *B. W. B. M.* and *B. F.* or ſome of them, and their, or ſome of their, reſpective executors, adminiſtrators, and aſſigns, *(a)* ſhall and will, upon the requeſt of the ſaid *A. E. I.* his executors, adminiſtrators, or aſſigns, but at the proper coſts, charges, and expences of the ſaid ſir *B. W. B. M.* and *B. F.* or of ſome of them, or their, or ſome of their executors, adminiſtrators, or aſſigns, make, do, acknowledge, levy, ſuffer, and execute, or cauſe or procure to be made, done, acknowledged, levied, ſuffered, and executed, all and every ſuch further and other lawful and reaſonable act and acts, thing and things, deed and deeds, devices, conveyances, and aſſurances in the law whatſoever, for the further, better, more perfect, and abſolute granting, aſſigning, transferring, confirming, and aſſuring the ſaid hereditaments and premiſes hereby aſſigned and confirmed, or intended ſo to be, as aforeſaid,

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free from incumbrances.

Covenant for further aſſurance after default.

(a) As this is a portion for the children's benefit, which the eſtate is liable to pay, *quere*, whether any perſon ought to covenant for the payment of the money and for further aſſurance, except the owner,

MORTGAGE. with their and every of their appurtenances unto the ſaid *A. E. I.* his executors, adminiſtrators, and aſſigns, for all the reſt, reſidue, and remainder of the ſaid term of — years which ſhall be then to come and unexpired, freed and abſolutely diſcharged of and from the aforeſaid proviſo hereinbefore contained, for redemption of the ſame hereditaments and premiſes as by the ſaid *A. E. I.* his executors, adminiſtrators, or aſſigns, or his or their counſel learned in the law ſhall be reaſonably deviſed, or adviſed and required. AND moreover, that they, the ſaid lady *E. A.* ſir *B. W. B. M.* and *B. F.* or any of them, have or hath not at any time or times heretofore made, done, executed, or committed, or wittingly or willingly ſuffered, any act, deed, matter, or thing whatſoever, whereby, or by reaſon or means whereof, the ſaid hereditaments and premiſes, hereby bargained, ſold, aſſigned, ratified and confirmed, or intended ſo to be, or any part or parcel thereof, are, is, can, ſhall or may be, impeached, charged, or incumbered, in title, charge, eſtate, or otherwiſe, howſoever, or whereby or by reaſon or means whereof the ſaid term of — years, or the reſidue thereof, hath been transferred, aſſigned, ratified, or confirmed by them, or any of them, or by reaſon or means whereof the ſaid term of — years, or the reſidue thereof, now to come and unexpired, or of any part thereof, is, can, or may be forfeited, ſurrendered, merged, extinguiſhed, impeached, or made void or voidable, in any wiſe howſoever. AND further, that they, the ſaid lady *E. A.* ſir *B. W. B. M.* and *B. F.* have not, nor hath any one of them, at any time or times

And that ſaid parties have done no act to incumber the ſaid term, or whereby the ſame may be forfeited, ſurrendered, merged, or extinguiſhed,

and that they have not received any part of the ſame,

heretofore, raiſed or received the ſaid ſum of ——, ſo ſecured by and under the truſt of the ſaid term of —— years as aforeſaid, or any part thereof, and that the ſaid ſum of —— is now juſtly due and owing (unimpeached and unincumbered) in equal parts, ſhares, and proportions, unto them, the ſaid *B. W. B. M.* and *B. F.* their reſpective executors, adminiſtrators, and aſſigns, by virtue of and under the truſts of the aforeſaid term of — years, ſo by the ſaid indenture of releaſe of the — day of —, &c. created and limited in uſe, to them the ſaid truſtees, their executors, adminiſtrators, and aſſigns, in manner therein, and hereinbefore mentioned and ſet forth: PROVIDED ALWAYS, and it is hereby declared and agreed upon, by and between the ſaid parties to theſe preſents, that in the mean time and until default ſhall happen to be made of or in payment of the ſaid ſeveral ſums of ——, and ——, and the intereſt thereof, at the rate aforeſaid, making together the full and clear ſum of —, contrary to the true intent and meaning of theſe preſents, it ſhall and may be lawful to and for the ſaid lady *M. F.* her executors, adminiſtrators, and aſſigns, or other the perſon or perſons who by virtue of the limitations in the aforeſaid indenture of releaſe of the — day of ——, contained and hereinbefore mentioned or referred to, and the truſts declared concerning the ſaid ſum, is, ſhall, or may be intitled, peaceably and quietly to have, hold, uſe, occupy, poſſeſs, and enjoy, the ſaid hereditaments and premiſes hereby aſſigned and confirmed, or intended ſo to be, as aforeſaid, and every part and

MORTGAGE.

and that the ſame is now due.

For enjoyment, until default of payment.

MORTGAGE.

parcel thereof, with their reſpective appurtenances, and the rents, iſſues, and profits thereof, and of every part thereof, to receive and take to and for his, her, and their own uſe, and without any the lawful let, ſuit, trouble, eviction, ejection, interruption, claim or demand whatſoever, of or by the ſaid *A. E. I.* his executors, adminiſtrators, or aſſigns, or of or by any other perſon or perſons whomſoever, lawfully claiming, or to claim by, from, or under, or in truſt for him, them, or any of them, any thing hereinbefore contained to the contrary thereof, in any wiſe notwithſtanding.

It would be wrong for lady — to releaſe, as that might totally deſtroy her jointure.

AND this indenture further witneſſeth, that for the better and more effectually ſecuring the payment of the ſaid ſums of ——, and ——, and the intereſt thereof, after the rate aforeſaid, to the ſaid *A. E. I.* his executors, adminiſtrators, and aſſigns, at the times and place and in manner aforeſaid, the ſaid lady *B. I.* for herſelf, her heirs, executors, adminiſtrators, and aſſigns, doth hereby covenant, promiſe, and agree to and with the ſaid *A. E. I.* his executors, adminiſtrators, and aſſigns, that while the ſaid ſum of ——, and the intereſt thereof, or any part thereof reſpectively ſhall be due or owing on this preſent mortgage, or ſecurity, ſhe, the ſaid lady *M. F.* ſhall and will conſent and agree, and ſhe doth hereby conſent and agree, that the ſaid ſum of ——, and the intereſt thereof, ſhall take place of and be paid before the ſaid jointure of £.— a year, provided for the ſaid lady *B. F.* for her life as aforeſaid, and the arrears and growing payments thereof, and that the payment of the ſaid jointure arrears, and growing

Agreement by the jointreſs, that her jointure ſhall be poſtponed.

payments, ſhall be poſtponed until the intereſt of the ſaid ſum of ——, ſhall be paid and diſcharged, ſo as to give the ſaid ſum of ——, and the intereſt thereof, a priority to the ſaid jointure, and the arrears and growing payments thereof, and alſo that the ſaid lady *B. F.* or her aſſigns, ſhall not claim her ſaid jointure, or the arrears or growing payments of the ſame or any part thereof, out of the ſaid two undivided fifth parts, hereby bargained, ſold, and aſſigned, of the ſaid hereditaments hereinbefore mentioned, until the ſaid ſum of ——, and the intereſt thereof, ſhall be fully paid unto the ſaid *A. E. I.* his executors, adminiſtrators, or aſſigns. In witneſs, &c. MORTGAGE.

Aſſignment by Way of Mortgage of Intereſt Dividends, and Produce of Stock, and the Principal.

THIS indenture, made &c. BETWEEN *D. W.* of &c. and *E.* his wife, of the firſt part, *B. R.* and *P.* his wife, of the ſecond part, *M. I.* of, &c. and *F.* his wife, of the third part, *D. E.* of the fourth part (which ſaid *P.* the wife of the ſaid *B. R. F.* the wife of the ſaid *M. I.* and *D. E.* are three of the children of the ſaid *D. W.* by the ſaid *E.* his wife) and *B. J.* of ——, aforeſaid, ——, of the fifth part. WHEREAS, *B. I.* late of &c. deceaſed, grandfather of the ſaid *D. E.* did, in, and by his laſt will in writing, duly executed, bearing date on or about the — day of ——, which was in the year of our Lord ——, after divers bequeſts therein Recital of will of *B. I.*

MORTGAGE.

contained, give and bequeath all the reſt and reſidue of his goods and chattels, and perſonal eſtate, after payment of his debts, legacies, and funeral expences, unto his nephew *B. E.* and *N. J.* To the intent that they might convert the ſame into money, and pay one third part thereof, equally between his three grand-daughters, daughters of *E. J.* the younger, at their reſpective ages of twenty one years. AND whereas the ſaid *B. J.* the grandfather, and *B. J.* the father, have ſince ſeverally departed this life, and the ſaid *B. J.* the father, at the time of his death, left three daughters, him ſurviving, that is to ſay, the ſaid *D. E.* party, *S.* and *A.* AND whereas, by articles of agreement, entered into previous to the marriage of the ſaid *D. W.* and *E.* his wife, bearing date the — day of — in the year —, and made, or expreſſed to be made, between the ſaid *D. W.* of the firſt part, the ſaid *E.* his wife, then *B. B.* ſpinſter, of the ſecond part, *F. E.* widow, *A. G.* and *M. H.* as therein deſcribed, of the third part, and *A. B.* and *D. W.* the elder, as therein alſo deſcribed, of the fourth part, [reciting as, or to the effect hereinbefore recited, and that a marriage was then intended to be had and ſolemnized between the ſaid *D. W.* the younger, and the ſaid *E.* his now wife.] It is witneſſed, that for the conſiderations thereinbefore mentioned, they the ſaid *D. W.* the younger, *F. E.* *A. G.* and *M. H.* did each of them for himſelf, herſelf, and themſelves, and for his, her, and their executors and adminiſtrators, covenant, promiſe, and agree, to and with the ſaid *A. B.* and *D. W.* the elder, their executors, adminiſtrators, and aſſigns,

Recital of marriage articles.

that in caſe the ſaid intended marriage took effect, they the ſaid *D. W.* the younger, parties hereto, and the ſaid *E.* his wife, *F. E.* and *A. G.* and *M. H.* ſhould as far as they ſeverally and reſpectively might and could within the ſpace of —— months, next after the ſaid *B. E.* ſhould have attained her age of 21 years, aſſign, transfer, and convey unto the ſaid *A. G. M. H. B. A.* and *D. W.* the elder, or the ſurvivors or ſurvivor of them, or the executors, adminiſtrators, and aſſigns, of ſuch ſurvivor, (amongſt other things therein mentioned,) all ſuch monies, ſtock in the public funds, goods, effects, and perſonal eſtate whatſoever, which ſhe the ſaid *B. E.* was entitled to, under, or by virtue of the hereinbefore in part recited will of the ſaid *B. J.* her grandfather, deceaſed, in truſt, to inveſt ſuch part thereof, as ſhould conſiſt of ready money, in government, or other real ſecurities in this kingdom, and to pay the yearly intereſt, dividends, and produce of the ſame, when purchaſed as the ſame ſhould from time to time be received, into the proper hands of the ſaid *B. E.* as to ſuch perſon or perſons, and for ſuch uſes and purpoſes as ſhe ſhould by any note or writing under her hand from time to time, notwithſtanding, the ſaid intended coverture, direct and appoint, for her ſole and ſeparate uſe and benefit, for and during the term of her natural life, free from, and no ways ſubject to the power, controul, intermeddling debts, or engagements of the ſaid *D. W.* the younger party hereto, her huſband; and it was thereby declared and agreed, that the receipt or receipts of the ſaid *B. E.* (now *D. E.*) ſhould notwithſtanding her

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MORTGAGE. coverture, be a good and ſufficient diſcharge to the ſaid truſtees for ſo much money as ſhould be expreſſed therein, to have been paid to her, and received, by, and from, and immediately after the deceaſe of the ſaid *B. E.* now *D. E.* then in truſt, to pay the yearly intereſt, dividends, and produce thereof, as the ſame ſhould from time to time be received, to the ſaid *D. W.* party hereto, and his aſſigns, for and during the term of his natural life, and from and immediately after the deceaſe of the ſurvivor of them the ſaid *D. W.* party hereto, and *E.* his wife, in truſt, to aſſign, transfer, and convey the ſame, to and amongſt all and every the ſons and daughters of the ſaid *D. W.* (party hereto) on the body of the ſaid *E.* his now wife, to be begotten, in ſuch parts and proportions, manner and form, as they the ſaid *D. W.* and *E.* his wife, (parties hereto) ſhould by any writing or writings under their hands and ſeals, atteſted by two or more credible witneſſes, direct, limit, or appoint. AND whereas the ſaid marriage was ſoon afterwards had and ſolemnized, and in purſuance of the covenant in the ſaid hereinbefore in part recited articles contained, the ſhare or part of the ſaid *D. E.* of, and in the reſt and reſidue of the goods, chattels, and perſonal eſtate deviſed to her by the hereinbefore in part recited will of the ſaid *B. J.* her grandfather, deceaſed, was laid out in the purchaſe of £——, 3 per cent. conſol. bank annuities, in the names of them the ſaid *A. G. M. H. B. A.* and *D. W.* the elder. AND whereas the ſaid *A. G. A. B.* and *D. W.* the elder, are all ſince dead, leaving the ſaid *M. H.* them ſurviving, whereby

Recital of marriage taking effect, and ſhare of monies, &c. being inveſted in funds.

MORTGAGE.

the ſaid ſum of ——, 3 per cent conſols, bank annuities, and the dividends, intereſt, and produce thereof, are now become veſted in the ſaid *M. H.* by ſurvivorſhip, upon the truſts aforeſaid: AND whereas by indenture of appointment, bearing date the day next before the day of the date hereof, and made between the ſaid *D. W.* and *E.* his wife, of the one part, and *C. E.* and the ſaid *B. P. M. F.* and *D. E.* and *E. D.* and *D. W.* therein all deſcribed, as the only children of the ſaid *D. W.* and *E.* his wife, of the other part, whereby, [after reciting amongſt other things, as, or to the effect hereinbefore mentioned.] IT is witneſſed, that in purſuance of the hereinbefore recited power contained in the ſaid articles, bearing date on or about the —— day of ——, which was in the year ——, they the ſaid *D. W.* and *E.* his wife, did by that their deed or inſtrument, in writing, by them ſigned and ſealed in the preſence of the two credible perſons, whoſe names are thereupon endorſed, or mentioned ſo to be, witneſſes thereto, direct, limit, and appoint, that from and after the deceaſe of the ſurvivor of them the ſaid *D. W.* the younger, and *E.* his wife, the ſaid ſum of ——, 3 per cent. conſols, bank annuities, ſhould go and be paid and applied equally to and amongſt them the ſaid *C. E. B. P. M. F. E. D. E. D.* and *D. W.* and their reſpective executors, adminiſtrators, and aſſigns, ſhare and ſhare alike, as tenants in common, and not as joint-tenants: AND whereas the ſaid *W. D.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* having occaſion for the ſum of ——, have applied to the ſaid *B. I.*

Recital of indenture of appointment.

Recital of having occaſion for money, and agreement to advance the ſame.

MORTGAGE. to advance and lend them the ſame, which he hath agreed to do, on having the ſecurity hereinafter mentioned: Now this indenture witneſſeth that

Conſideration. in conſideration of the ſum of ——, of lawful money of *Great Britain* to them the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* ſome or one of them in hand well and truly paid by the ſaid *B. J.* at or before the ſealing and delivery of theſe preſents, the receipt whereof they the ſaid *W. D.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* do hereby reſpectively acknowledge, and thereof, and of, and from every part thereof, do, and each and every of them doth acquit, releaſe and diſcharge the ſaid *B. I.* his executors, adminiſtrators and aſſigns, and every of them, for ever by theſe preſents, they the ſaid *D. W.* the younger, and *E.* his wife, have, and each of them, hath granted, bargained, ſold, aſſigned, transferred, and ſet over, ratified, and confirmed, and by theſe preſents, do, and each of them, doth grant, bargain, ſell, aſſign, transfer, and ſet over, ratify, and confirm unto the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, all that the ſaid ſum of ——, 3 per cent. conſol. bank annuities, ſtanding in the names of the ſaid *A. G. A. B. W. D.* the elder, and *M. H.* and the intereſt, dividends and produce thereof, and all benefit and advantage thereof, for and during the joint lives of them the ſaid *D. W.* and *E.* his wife, and the life of the ſurvivor of them, To have and to hold, receive, take and enjoy all that the ſaid ſum of ——, 3 per cent. conſol. bank annuities, and the dividends, intereſt,

and produce thereof, hereby aſſigned, or mention- MORTGAGE.
or intended ſo to be, and all the future and growing payments thereof, and all advantage and benefit thereof, unto the ſaid *B. J.* his executors, adminiſtrators and aſſigns, from henceforth, for and during the term of the natural lives of the ſaid *D. W.* the younger, and *E.* his wife, and the life of the ſurvivor of them, ſubject nevertheleſs, to the proviſo or agreement for redemption of the premiſes hereinafter mentioned and contained. AND this indenture further witneſſeth, that for the conſiderations aforeſaid, and for and in conſideration of the further ſum of 5s. apiece, of like lawful money to them the ſaid *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* in hand, well and truly paid by the ſaid *B. J.* at or before the ſealing and delivery of theſe preſents, the receipt whereof they do hereby reſpectively acknowledge, they the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* have, and each and every of them hath granted, bargained, ſold, aſſigned, transferred, and ſet over, ratified, and confirmed, and by theſe preſents, do and each of them doth grant, bargain, ſell, aſſign, transfer and ſet over, ratify, and confirm unto the ſaid *B. J.* his executors, adminiſtrators, and aſſigns, all thoſe three undivided ſixth parts or ſhares, the whole into ſix equal parts to be divided, of them the ſaid *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* of and in the ſaid ſum of ——, 3 per cent, conſol. bank annuities, ſo directed, and appointed, in and by the ſaid hereinbefore in part recited indenture, bearing date the day next before the day

MORTGAGE. of the date of theſe preſents, as aforeſaid, unto them the ſaid *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* from and after the deceaſe of the ſurvivor of them the ſaid *D. W.* and *E.* his wife, and every of them, and every part thereof, and all the dividends, intereſt, and produce thereof, and of every part thereof, and all benefit and advantage thereof, and all the eſtate, right, title, intereſt, truſt, property, claim, and demand whatſoever, both at law and in equity of them the ſaid *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* every or any of them, of, into, or out of the ſaid ſum of ——, 3 per cent. conſol. bank annuities, and the intereſt, dividends, and produce thereof, every or any part thereof, by force or virtue of the ſaid recited will, articles and deed of appointment, or otherwiſe howſoever; To have, hold, receive, perceive, take and enjoy the ſaid three undivided ſixth part or ſhares of them the ſaid *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* of and in the ſaid ſum of ——, 3 per cent. conſol. bank annuities, and every part thereof, and all the dividends, intereſt, and produce, from henceforth to ariſe, or be received for the ſame, every or any part thereof, and all benefit and advantage thereof, unto him the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, to and for his and their own uſe, and benefit for ever, as fully and effectually to all intents and purpoſes, as they the ſaid *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* any or either of them, their or any of their executors, adminiſtrators and aſſigns, might or could have, hold, received, and enjoyed the

same as if these premises, had not been made: PROVIDED always, and it is hereby expressly declared and agreed, by and between the said parties to these presents, and the true intent and meaning of them and of these presents is that as well the said sum of ——, 3 per cent. consol. bank annnities, and the dividends, interest, and produce thereof, for and during the natural lives of the said *D. W.* the the younger and *E.* his wife, and the life of the survivor of them hereinbefore first mentioned, and intended to be hereby granted and assigned, as the said three undivided sixth parts of them the said *B. R.* and *P.* his wife, *I. M.* and *F.* his wife, and *D. E.* of and in the said sum of ——, 3 per cent. consol. bank annuities, and the interests, dividends and produce thereof, from and after the decease of the survivor of them, the said *D. W.* the younger, and *E.* his wife, last hereinbefore mentioned, and intended to be hereby granted and assigned unto the said *B. J.* his executors, administrators, and assigns, are so assigned respectively as aforesaid, subject to the proviso and agreement hereinafter expressed and contained, (that is to say) that if the said *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* or any or either of them, their, or any or either of their heirs, executors, administrators, or assigns, do and shall well and truly pay, or cause to be paid, at or in the ———, unto the said *B. I.* his executors, administrators, and assigns, the full and just sum of ——— of lawful money of *Great Britain*, on the — day of ———, now next ensuing, with lawful interest for the same, after the rate of £——,

MORTGAGE.

Proviso for redemption.

MORTGAGE.

per cent. per annum, without any deduction or abatement, whatſoever, for, or by reaſon of any taxes, or otherwiſe, then and in ſuch caſe the preſent indenture, and the aſſignment hereby made, ſhall ceaſe, determine, and be utterly void and of none effect, any thing hereinbefore contained to the contrary in any wiſe notwithſtanding. And the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* do hereby reſpectively make, ordain, conſtitute, authoriſe, and appoint the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, and every of them, their, his, and her true and lawful attorney and attornies, in their, or any or either of their names, or in the name of the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, but to the proper uſe and behoof of the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, from and immediately after default, if any ſhall happen to be made of or in payment of the ſaid ſum of ——, and the intereſt thereof, as aforeſaid, or any part thereof, to aſk, demand, ſue for, recover, and receive, of and from the within named *M. I.* his executors, adminiſtrators, and aſſigns, and all others whom it doth, ſhall, or may concern, from henceforth, the ſaid intereſt, dividends, produce, and premiſes, and every part thereof, and upon receipt thereof, or of any part thereof, releaſes, acquittances, and other proper diſcharges, from time to time, to make and give for the ſame, either in the name or names of him the ſaid *B. J.*

Power of attorney to receive intereſt, dividends, &c. (a).

(a) See ante, p. 10.

his executors, adminiſtrators, or aſſigns, or in the names or name of the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* or either of them, juſt as occaſion ſhall be and require, and upon non-payment thereof, or of any part thereof, in the names or name, and in manner aforeſaid, to have, take, exerciſe, commence, carry on, and proſecute, all ſuch powers, remedies, and expedients, courſes, ways, or means, whatſoever, and in ſuch manner as they the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* or either of them, might or could perſonally do in that behalf in caſe theſe preſents had not been made. And the ſaid *D. W.* for himſelf and the ſaid *E.* his wife, and the ſaid *B. R.* for himſelf and the ſaid *P.* his wife, and his and her heirs, executors, and adminiſtrators, and the ſaid *M. I.* for himſelf, and the ſaid *F.* his wife, his and her heirs, executors, and adminiſtrators, and the ſaid *D. E.* for himſelf, his heirs, executors, and adminiſtrators, do, and each and every of them doth covenant, promiſe, and agree, to and with the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, and every of them, by theſe preſents, in manner and form following, (that is to ſay,) that they the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* or ſome or one of them, ſhall and will well and truly pay, or cauſe to be paid, unto the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, the ſaid ſum of —— of lawful money of *Great Britain*, with intereſt thereon, after the rate aforeſaid, on the ſaid

MORTGAGE.

Covenant to pay principal money and intereſt.

MORTGAGE. — day of ——, without any deduction, defalcation, or abatement, whatſoever, as aforeſaid; and alſo that they the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* or ſome or one of them now have or hath in themſelves, or one of them, good right, full power, and lawful and abſolute authority, to grant, bargain, ſell, aſſign, transfer, aud ſet over, unto the ſaid *B. J.* his executors, adminiſtrators, and aſſigns, the ſaid dividends, intereſt, and produce, three undivided ſixth parts, bank annuities, and premiſes, and in manner and form aforeſaid; and have not, nor hath any or either of them, at any time heretofore, ſold, aſſigned, or diſpoſed of the ſaid intereſt, dividends, and produce, and premiſes hereby aſſigned, or mentioned, or intended ſo to be, nor done, committed, or ſuffered, any act, matter, or thing, whatſoever, whereby, or by reaſon or means whereof the ſame, or any part thereof, is, are, ſhall, or may be impeached, charged, or incumbered, in title, eſtate, or otherwiſe howſoever. And that they the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* ſhall not, nor will at any time or times hereafter, make, enter into, or execute any grant or aſſignment, transfer, releaſe, or other deed, writing, or aſſurance, or make, do, or commit, or cauſe and procure to be made, done, or committed, any act or acts, deed, matter, or things whatſoever, to impeach, avoid, annul, leſſen, defeat, or deſtroy, or in any wiſe effect the grant and aſſignment, or power, by theſe preſents made or granted to the ſaid *B. J.* his executors,

adminiſtrators, and aſſigns, or by means whereof the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, may, in caſe default, if any, ſhall be made in payment of the ſaid ——, and the intereſt thereof, at the days and times in the ſaid proviſo hereinbefore mentioned for payment thereof, prevented or hindered from receiving the ſaid intereſt, dividends, and produce, the undivided ſixth parts, bank annuities, and premiſes hereby aſſigned, or expreſſed, or intended ſo to be. And LASTLY, that they the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* ſhall and will, from time to time, and at all times from and after default, if any ſhall happen to be made as aforeſaid, upon the requeſt, and at the coſts and charges of the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, make, do, and execute, all and every ſuch further and other lawful and reaſonable act and acts, grants, aſſignments, and aſſurances, in the law whatſoever, for the further granting, aſſigning, transferring, ſecuring, and aſſuring the ſaid dividends, intereſt, and produce, three undivided ſixth parts, bank annuities, and premiſes hereinbefore aſſigned, or mentioned, or intended ſo to be, unto the ſaid *B. J.* his executors, adminiſtrators, or aſſigns, or as he or they ſhall direct or appoint, freed, and diſcharged from the ſaid proviſo or covenant, for redemption thereof, as by the ſaid *B. J.* his executors, adminiſtrators, and aſſigns, or his or their counſel learned in the law, ſhall be deviſed, or adviſed and required. And it is hereby declared and agreed, by and between the ſaid parties to

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MORTGAGE. theſe preſents, that in the mean time, and until default ſhall be made of or in payment of the ſaid ſum of ——, and intereſt, or ſome part thereof, contrary to the tenor, true intent, and meaning of the above written proviſo or agreement, for payment thereof, it ſhall and may be lawful, to and for the ſaid *D. W.* and *E.* his wife, *B. R.* and *P.* his wife, *M. I.* and *F.* his wife, and *D. E.* their, and each and every of their executors and adminiſtrators, according to their ſeveral and reſpective eſtates and intereſts in the ſaid premiſes, peaceably and quietly to have, hold, and enjoy the ſame, and to receive and take the intereſt, dividends, and produce thereof, to their and each of their own uſe and benefit, without any lawful let, ſuit, denial, diſturbance, or interruption, of or by the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, or any other perſon or perſons lawfully claiming, or to claim by, from, or through them or any of them. In witneſs, &c.

Aſſignment of Ships, for ſecuring £—— 3 per Cent. conſolidated Bank Annuities.

Parties. THIS INDENTURE made, &c. between *B. S.* and *T. S.* of the city of ——, merchants, of the one part, and *W. D.* of the city of ——, in the county of ——, draper, of the other part.

Recital of being entitled to certain ſhips. WHEREAS the ſaid *B. S.* and *T. S.* are poſſeſſed of and well

entitled unto two certain ſhips or veſſels, the one called ——, of the burthen of —— tons, by admeaſurement, or thereabouts, now upon a voyage to ——, whereof *M. W.* is maſter, and the other the brig, ſhip, or veſſel called the ——, of the burthen of —— tons, by admeaſurement, or thereabouts, now upon a voyage to ——, whereof *F. M.* is maſter, with all the anchors, cables, ſails, ſhrouds, rigging, apparel, guns, and other appurtenances to the ſaid two ſhips or veſſels reſpectively belonging. AND WHEREAS the ſaid *W. D.* at the requeſt and for the accommodation of the ſaid *B. S.* and *T. S.* ſold out the ſum of —— 3 per cent. conſolidated bank annuities, and lent the produce thereof to them the ſaid *B. S.* and *T. S.* under their promiſe and engagement to refund the ſaid ſtock within the ſpace of —— days, next after requeſt made for that purpoſe, by the ſaid *W. D.* his executors, adminiſtrators, and aſſigns, and to pay ſuch dividends as would have become due thereon in the mean time, in caſe the ſame had remained in the bank of *England*, untransferred and undiſpoſed of. AND alſo to ſecure the refunding the ſame by a transfer and aſſignment of the ſaid two ſhips or veſſels, and the original or grand bill or bills of ſale belonging to the ſaid ſhips reſpectively by way of mortgage in manner hereinafter mentioned. NOW THIS INDENTURE WITNESSETH, that for and in conſideration of the produce of the ſaid ſum of ——, 3 per cent. conſolidated bank annuities (ſo ſold out by the ſaid *W. D.* as aforeſaid) to the ſaid *B. S.* and *T. S.* in hand well and truly paid by the ſaid *W. D.* the

MORTGAGE.

Recital of ſale of £——, 3 per cent. conſolidated bank annuities, and loan thereof to B. S. and T. S.

And to ſecure the refunding of the ſame by the aſſignment of the ſaid two ſhips.

Conſideration.

MORTGAGE. receipt whereof they do hereby reſpectively admit and acknowledge, and for ſecuring to the ſaid *W. D.* his executors, adminiſtrators, or aſſigns, a transfer of the like ſum of ——, 3 per cent. conſolidated bank annuities, within the ſpace of —— days next after requeſt made for that purpoſe, by the ſaid *W. D.* his executors, adminiſtrators, or aſſigns, they the ſaid *B. S.* and *T. S.* have, and each of them hath bargained, ſold, aſſigned, tranſferred, and ſet over, and by theſe preſents do, and each of them doth bargain, ſell, aſſign, transfer, and ſet over, unto the ſaid *W. D.* his executors, adminiſtrators, and aſſigns, all that the ſaid good ſhip or veſſel called the ——, whereof *M. W.* goeth maſter, and the ſaid other ſhip, brigantine, or veſſel, called the ——, whereof *F. M.* goeth maſter, together with all and ſingular maſts, ſails, ſail-yards, anchors, cables, ropes, cords, cannons, guns, fire-arms, ammunition, proviſion, tackle, apparel, boats, oars, furniture, materials, appendants, and appurtenances whatſoever to the ſaid two ſhips or veſſels, reſpectively belonging or in any wiſe appertaining, a particular deſcription of which ſaid two ſhips or veſſels, are contained in their reſpective certificates of regiſtry, a copy of which are reſpectively as follows, (that is to ſay)

Transfer.

All that the ſaid ſhips.

(Ship's Name.)

Copy of regiſtry of ſhips. No. ——. Certificate of Britiſh regiſtry

"Number ——. In purſuance of an act paſſed in the —— year of the reign of king George the Third, intitled, an act for the further increaſe and encouragement of ſhipping and navigation *Q. S.* and *T. S.* of ——, merchants, having taken and

ſubſcribed the oath required by the ſaid act, and having ſworn that they are the ſole owners of the ſhip or veſſel called ——— of ———, whereof *W. D.* is at preſent maſter, and that the ſaid ſhip or veſſel was built at ——, in the year ——, as appears by a regiſter granted at ——, on the —— day of ——, now delivered up and cancelled, and *C. A.* carpenter at ——, having certified to us, that the ſaid ſhip or veſſel is Britiſh built, has two decks and three maſts, that her length from the fore part of the main ſtern to the after part of the ſtern poſts aloft, is —— feet, her breadth at the broadeſt part above the main wales, is —— feet, her height between decks is —— feet, and admeaſures —— tons, that ſhe is a ſquare-ſterned ſhip, has no gallery, and a figure-head; and the ſaid ſubſcribing owners having conſented and agreed to the above deſcription and admeaſurement, and having cauſed ſufficient ſecurity to be given, as is required by the ſaid act, the ſaid ſhip ———, has been duly regiſtered at the port of *London*. Given under our hands and ſeals of office, at the cuſtom-houſe of the ſaid port of *London*, this —— day of —— in the year ——. MORTGAGE. (Seal.) B. W. deputy collector. (Seal.) J. I. per comptroller.

"Endorſed at *London*, the — day of ——, to *M. W.*

(*Ship's Name.*)

"Number ——. In purſuance of an act paſſed in the —— year of the reign of King George the Third, intitled, An act for the further increaſe and encouragement of ſhipping and navigation, *B. S.* and *T. S.* of ——, merchants, having taken and No. ——, Certificate of Britiſh regiſtry.

MORTGAGE.

ſubſcribed the oath required by the ſaid act, and having ſworn that they are ſole owners of the ſhip called ——, whereof *F. M.* is at preſent maſter, and that the ſaid ſhip or veſſel was built at ——, in the year ——, as appears by a regiſter, No. —, granted at ——, on the —— day of ——, now delivered up and cancelled, and *Z. C.* carpenter at ——, having certified to us that the ſaid ſhip or veſſel is Britiſh built, has two decks and two maſts, that her length from the fore part of the main ſtern to the after part of the ſtern-poſt aloft, is —— feet, her breadth at the broadeſt part above the main wales is —— feet, her height between decks is — feet, and admeaſures —— tons, that ſhe is a ſquare ſterned brigantine, has no gallery, and no head; and the ſaid ſubſcribing owners having conſented and agreed to the above deſcription and admeaſurement, and having cauſed ſufficient ſecurity to be given as is required by the ſaid act, the ſaid ſhip —— has been duly regiſtered at the port of *London*. Given under our hands and ſeals of office, at the cuſtom-houſe, in the ſaid port of *London*, this —— day of —— in the year ——."

(Seal.) S. J. deputy collector.

(Seal.) S. S. per comptroller.

AND all the eſtate, right, title, intereſt, uſe, truſt, poſſeſſion, property, claim, and demand, whatſoever, of them, the ſaid *B. S.* and *T. S.* of, in, and to the ſaid premiſes, hereby aſſigned, or any part or parcel thereof reſpectively, together with the original, or grand bill or bills of ſale belonging to the ſaid two ſhips or veſſels reſpectively, to have and to hold the ſaid two ſhips or veſſels, and all and ſingular other the premiſes by theſe preſents

To hold. ſubject to redemption.

MORTGAGE.

aſſigned, or intended ſo to be, and every part thereof reſpectively, with the appurtenances unto the ſaid *W. D.* his executors, adminiſtrators, and aſſigns, for his and their own uſe and benefit, ſubject to the proviſo and agreement, next hereinafter contained for redemption of the ſaid premiſes (that is to ſay), PROVIDED ALWAYS, and it is hereby declared and agreed, by and between, the ſaid parties to theſe preſents, that if the ſaid *B. S.* and *T. S.* or either of them, their, or either of their heirs, executors, or adminiſtrators, ſhall and do, within the ſpace of ten days next after requeſt made for that purpoſe of either or any of them, by the ſaid *W. D.* his executors, adminiſtrators, or aſſigns, transfer, or cauſe to be transferred, into his or their, name or names, in the books of the governor and company of the bank of England, the capital ſum of ——, 3 per cent. conſolidated bank annuities, and ſhall and do in the mean time and until ſuch transfer ſhall be made, well and truly pay or cauſe to be paid, unto the ſaid *W. W.* his executors, adminiſtrators, or aſſigns, ſuch dividends as would have become due upon, or in reſpect of the ſaid ſum of ——, of like annuities ſo ſold out as aforeſaid, in caſe the ſame had not been ſold out and diſpoſed of, then this preſent indenture, and every thing therein contained, ſhall ceaſe, determine, and be void. [*A Covenant to replace the Stock.*] AND that they, the ſaid *B. S.* and *T. S.* at the time of the ſealing and delivery hereof, are the true and lawful owners, poſſeſſors, and proprietors, of the ſaid two ſhips or veſſels, and all and ſingular the above hereby aſſigned

Proviſo for redemption.

Covenant that theſe are true owners.

MORTGAGE.

premiſes, and every part and parcel thereof reſpectively. And have now in themſelves full power, good right, and lawful authority, to bargain, ſell, aſſign, transfer, and ſet over the ſame, according to the purport, true intent and meaning of theſe preſents. And that they, the ſaid *B. S.* and *T. S.* their executors, adminiſtrators, and aſſigns, ſhall and will, at the coſts and charges of the ſaid *B. S.* and *T. S.* their executors, adminiſtrators, and aſſigns, inſure, or cauſe to be inſured, the ſaid two ſhips hereby aſſigned, in a ſum not leſs than ——, in the whole. And that, if at any time during the continuance of this ſecurity, the ſaid *B. S.* and *T. S.* their executors, adminiſtrators, and aſſigns, ſhall neglect to inſure, or keep inſured, the ſame two ſhips and premiſes reſpectively, at or in the ſum of ——, Then and in ſuch caſe it ſhall and may be lawful to and for the ſaid *W. D.* his executors, adminiſtrators, and aſſigns, to inſure the ſame at ſuch ſum as aforeſaid, and whatever ſum and ſums of money ſhall from time to time be advanced by the ſaid *W. D.* his executors, adminiſtrators, and aſſigns, for the making or continuing ſuch inſurance or inſurances, the ſame ſhall be charged and chargeable upon the ſame two ſhips and premiſes hereby reſpectively aſſigned, with intereſt thereon, from the time or reſpective times of the advancement thereof, at the rate of £—, for the £— by the year. And that the ſaid *W. D.* his executors, adminiſtrators, and aſſigns, ſhall and may from time to time, and at all times from and after default ſhall happen to be made in the transfer of the ſaid ſum of —, 3 per cent. conſolidated

Have power to aſſign.

To inſure ſhips.

For quiet enjoyment, after default in payment of mortgage money.

bank annuities, and payment of the intereſt and dividends ariſing therefrom, contrary to the form and effect of the aforeſaid proviſo and covenant, for payment of the ſame, and the true intent and meaning of theſe preſents, peaceably and quietly have, hold, uſe, occupy, poſſeſs, and enjoy the ſaid two ſhips or veſſels, and all and every the ſaid hereby aſſigned premiſes and every part and parcel thereof reſpectively, to and for his and their own uſe and benefit, without the lawful let, ſuit, trouble, denial, eviction, moleſtation, or interruption, of or by the ſaid *B. S.* and *T. S.* or either of them, or of or by any other perſon or perſons whomſoever. AND that free and clear, and freely and clearly, acquitted, exonerated, and diſcharged or otherwiſe by the ſaid *B. S.* and *T. S.* their executors or adminiſtrators, well and ſufficiently ſaved, defended, and kept harmleſs, and indemnified, of and from all and all manner of former and other bargains, ſales, gifts, grants, conditions, forfeitures, ſeiſures, debts, judgments, executions, bottomries, ſuits, titles, charges, troubles, and incumbrances whatſoever, had, made, done, ſuffered, granted, committed, or growing before the day of the date hereof. And it is hereby declared and agreed by and between all the ſaid parties to theſe preſents, That in caſe of ſuch default as aforeſaid, it ſhall and may be lawful to and for the ſaid *W. D.* his executors, adminiſtrators, or aſſigns, in caſe of any ſuch default, of or in payment of the ſaid ſum or ſums, on demand as aforeſaid, forthwith to ſeiſe, enter into, and upon, and take poſſeſſion of the ſaid hereby aſſigned ſhips and premiſes

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Free from incumbrances.

Further aſſurances.

Power to take poſſeſſion of ſhips.

MORTGAGE. reſpectively, every of them, or any part or parcel thereof, whereſoever the ſame ſhall be found, without any moleſtation, interruption, impediment, or denial, of, from, by, or through the ſaid *B. S.* and *T. S.* their executors, adminiſtrators, and aſſigns, or any of them. AND that they, the ſaid *B. S.* and *T. S.* their executors, adminiſtrators, and aſſigns, or any of them, ſhall not nor will have, take, or receive any advantage for the omiſſion or want of compliance, with any forms or form of proceeding, or other matter, uſual in ſuch caſes, or bring any action or actions, ſuit or ſuits, againſt the ſaid *W. D.* his executors, adminiſtrators, or aſſigns, for any treſpaſs or irregularity in ſuch proceeding or otherwiſe, concerning the ſame premiſes, or any of them ariſing in conſequence thereof. PROVIDED NEVERTHELESS, and it is hereby further agreed and declared, that in the mean time, and until default ſhall be made in the transfer of the ſaid ſum of ——, 3-per cent conſolidated bank annuities, and the intereſt and dividend ariſing therefrom, contrary to the form and effect of the aforeſaid proviſo, and covenant for payment of the ſame hereinbefore contained, it ſhall and may be lawful to and for the ſaid *B. S.* and *T. S.* their heirs and aſſigns, peaceably and quietly to have, hold, uſe, and enjoy all and ſingular the ſaid two ſhips or veſſels and premiſes hereby reſpectively aſſigned or intended ſo to be, and every part and parcel thereof, to and for their own uſe and benefit without the lawful let, ſuit, trouble, moleſtation or interruption of or by the ſaid *W. D.* his executors, ad-

Not to take any advantage for want of form.

For quiet enjoyment, until default.

miniſtrators, or aſſigns, or of, or by any other perſon or perſons whomſoever. And it is hereby further agreed and underſtood, by and between the ſaid parties to theſe preſents, that the ſaid *W. W.* his executors, adminiſtrators, or aſſigns, ſhall not (if the ſaid *B. S.* and *T. S.* ſhall fail in complying with the covenants above mentioned), keep the ſaid two ſhips or veſſels hereby reſpectively aſſigned longer than a reaſonable time to enable him the ſaid *W. D.* to make public ſale of the ſame, but ſhall as ſoon as may be after the ſaid two ſhips or veſſels hereby reſpectively aſſigned, come into his poſſeſſion, ſell them firſt, (*a*) giving reaſonable notice to the ſaid *B. S.* and *T. S.* of ſuch intention, and ſhall apply the ſurplus (if any) to the uſe and benefit of the ſaid *B. S.* and *T. S.* their executors and adminiſtrators, the ſaid *B. S.* and *T. S.* firſt agreeing to make good any deficiency ariſing from ſuch ſale. IN WITNESS, &c. MORTGAGE.

Aſſignment of Houſe, Furniture, Stock in Trade, &c. as a collateral ſecurity for Money already advanced lent, or hereafter to be advanced.

THIS indenture made between *I. L.* of ——, in the pariſh of —, in the county of —— tavern and coffee-houſe keeper of the one part, and *B. I.* of ——, in the ſaid county, coal merchant of the other part: Whereas by certain articles of agree- Recital of an agreement and purchaſe of premiſes ſubject to an annuity.

(*a*) See *Pow.* Mortg. 13. 19.

MORTGAGE. ment made and agreed upon, or expreſſed, or intended ſo to be, bearing date the — day of ——, between *B. E.* of ——, in the county of ——, eſquire, of the one part, and the ſaid *C. L. P.* of the other part, the ſaid *B. E.* in conſideration of an annuity of £——, per annum, being ſecured to be paid to him by the ſaid *C. L. P.* his heirs, executors, or adminiſtrators, for and during the term of his natural life, by quarterly payments, commencing as therein expreſſed, did thereby for himſelf, his heirs, executors and adminiſtrators, now agree to ſell and aſſign unto the ſaid *C. L. P.* his executors, adminiſtrators and aſſigns, all his the ſaid *B. E's.* right, title, eſtate and intereſt, of and in all that meſſuage or tenement called the —— houſe, ſituate at ——, in the county of ——, holden by leaſe, dated the — day of ——, made from the then duke of ——, for their lives, and which leaſe and premiſes by ſubſequent acts and aſſurances, had then become the property of the ſaid *B. E.* and by the ſame articles of agreement, the ſaid *C. L. P.* did thereby for himſelf, his heirs, executors and adminiſtrators, agree to purchaſe the ſaid meſſuages, and premiſes upon the terms aforeſaid, and to give his bond in a ſufficient penalty for the regular payment of the ſaid annuity, to the ſaid *B. E.* and his aſſigns, for and during the term of his natural life, together with a proportionable part of the ſaid annuity, up to the day of the deceaſe of the ſaid *B. E.* and that the ſaid meſſuages and premiſes ſhould be aſſigned to, and remain, and be as a collateral ſecurity for the payment of the ſaid annuity, and ſuch proportionable

part thereof as aforeſaid recited, to the ſaid *B. E.* and his aſſigns for his life as aforeſaid; and in the ſame articles of agreement it was recited, that the ſaid leaſe had been loſt or miſlaid, and could not then be found, nevertheleſs, the ſaid *C. L. P.* being deſirous that this now recited agreement ſhould be carried into execution, and therefore, the ſaid *B. E.* for himſelf, his heirs, executors and adminiſtrators, did thereby agree to deliver up to the ſaid *C. L. P.* his heirs, executors, adminiſtrators, or aſſigns, the ſaid original leaſe, ſo ſoon as the ſame ſhould be found, and in the mean time to indemnify him the ſaid *C. L. P.* his heirs, executors, adminiſtrators and aſſigns, from all loſs, coſts and charges that he or they ſhould ſuſtain on account of the non-production of the ſaid leaſe, in caſe he ſhould be diſturbed in his poſſeſſion of the premiſes for want thereof: MORTGAGE.

Recital of money due to the aſſignee for which a bond has been given.

AND whereas, the ſaid *B. I.* having advanced for and paid to, and for the uſe and benefit of the ſaid *C. L. P.* at different times and places, divers reſpective ſums of money, in all amounting to the ſum of ——, and he the ſaid *B. I.* having alſo by bond or obligation bearing date ——, become jointly bound with the ſaid *C. L. P.* to ——, in the penal ſum of ——, conditioned for payment of the ſum of ——, with yearly intereſt thereon, at the rate of £——, per centum, to be paid at the days and times therein expreſſed, and which ſaid ſum of ——, with the intereſt thereon ſo conditioned to be paid, was only due and owing to the ſaid ——, from the ſaid *C. L. P.* and which ſaid bond bill remains in full force and undiſcharged,

MORTGAGE. and the ſaid *C. L. P.* being juſtly indebted to ſeveral reſpective creditors at the time of the execution of theſe preſents, in divers and ſeveral ſums of money, and he the ſaid *B. I.* having agreed to ſatisfy, pay off, and fully diſcharge the ſaid bond with all the intereſt thereon due, ſo conditioned to be paid, and alſo having agreed to pay and fully diſcharge all ſuch the ſaid recited debts of the ſaid *C. L. P.* as may not collectively exceed the ſum of ——, nor amount to more in value than the ſaid articles of agreement before recited, and the effects and perſonal property herein after transferred and aſſigned, he the ſaid *C. L. P.* hath agreed to ſell transfer and aſſign to the ſaid *B. I.* his executors, adminiſtrators and aſſigns, all his right, title, eſtate, and intereſt in the ſaid meſſuage or tenement named in the above recited articles of agreement, and alſo, the ſaid recited articles of agreement themſelves, and alſo, all other his effects and perſonal property of what nature or kind ſoever, ſome of which is hereafter more particularly deſcribed, on the truſts, and ſubject to the condition and covenants hereinafter expreſſed. Now this indenture witneſſeth, that in purſuance of the ſaid agreement, and for and in conſideration of the ſum of ——, of lawful money of *Great Britain*, to the ſaid *C. L. P.* in hand paid, at or before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, he the ſaid *C. L. P.* hath bargained, ſold, aſſigned, transferred and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *B. I.* his executors, adminiſtrators and aſſigns, all the right,

Indenture witneſſeth that the debtor aſſigns the premiſes.

title, eſtate and intereſt, both at law and in equity of him the ſaid *C. L. P.* of, into, or out of the ſaid meſſuages or tenement and premiſes, with their and every of their appurtenances, named and deſcribed in the above recited articles of agreement, ſubject to the annuity thereby charged to be paid to the ſaid *B. I.* and his aſſigns, as therein expreſſed, together with the ſame articles of agreement, To have and to hold the ſaid meſſuages or tenement and premiſes, with their appurtenances unto the ſaid *B. I.* his executors, adminiſtrators and aſſigns, for ſuch time and period as the ſaid *C. L. P.* had a right, title, eſtate and intereſt in the ſame meſſuage, tenement and premiſes, by virtue of the ſaid hereby aſſigned articles of agreement upon the truſts nevertheleſs, and to and for the uſes, intents and purpoſes hereinafter particularly expreſſed. And the ſaid *C. L. P.* doth hereby for himſelf, his heirs, executors and adminiſtrators, covenant promiſe and agree, to and with the ſaid *B. I.* his executors, adminiſtrators and aſſigns in manner following, (that is to ſay), that it ſhall and may be lawful to and for him the ſaid *B. I.* his executors, adminiſtrators and aſſigns, at all times, from and after the execution of theſe preſents, during the continuance of the ſaid aſſigned term, peaceably and quietly to enter into, have, hold, poſſeſs and enjoy the ſaid hereby aſſigned meſſuage, or tenement and premiſes, and to receive and take the rents and profits thereof, and of every part thereof, (ſubject to the annuity charged thereon as aforeſaid), to and for his, and their own uſe and benefit, for and during the continuance of the ſaid

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Covenant for the title.

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hereby aſſigned term, without the lawful let, ſuit, trouble or interruption of or by the ſaid *C. L. P.* his executors, adminiſtrators, or aſſigns, or of, or by any other perſon or perſons claiming, or to claim from, by, or under, or on truſt for him, them, or any of them, and that free and clear, and freely and clearly acquitted, exonerated and diſcharged, or otherwiſe by the ſaid *C. L. P.* his heirs, executors, and adminiſtrators well and ſufficiently ſaved, defended, kept harmleſs, and indemnified of, from, and againſt all former and other bargains, ſales, and aſſignments, eſtates, titles, troubles, charges and incumbrances whatſoever, had, made, done, or ſuffered, or to be had, made, done, or ſuffered by the ſaid *C. L. P.* his executors, adminiſtrators, or aſſigns, or by any other perſon or perſons lawfully claiming or to claim from, by, or under them, or any of them, the annuity ſo charged thereon as aforeſaid only excepted: AND this indenture further witneſſeth, that in further purſuance of the before recited agreement, and for and in conſideration of the further ſum of —, of like lawful money, to the ſaid *C. L. P.* in hand paid by the ſaid *B. I.* at or before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, he the ſaid *C. L. C.* hath granted, bargained, ſold, aſſigned, transferred and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer and ſet over unto the ſaid *B. I.* his executors adminiſtrators and aſſigns, all and every the houſehold goods, furniture, plate, linen, books, china, and ſtock in trade, in or about that meſſuage or tenement in —— ſtreet aforeſaid, now in the tenure and occupation of the ſaid *C. L. P.*

Indenture further witneſſeth.

Aſſignment of ſtock in trade, &c.

commonly called or known by the name of ——, coffee-houſe, the particulars of which ſaid goods and effects are more fully ſet forth and expreſſed in an inventory, marked with the letter —, and hereunto annexed as will thereby appear, reference being thereunto had; and alſo, all the houſehold goods, furniture, plate, linen, books, china, and ſtock in trade, in or about that ſaid meſſuage or tenement and premiſes called the —— houſe hereinbefore transferred and aſſigned, the particulars of which goods and effects are more fully ſet forth and expreſſed in another inventory marked with the letter —, and alſo hereunto annexed as will likewiſe thereby appear, reference being thereunto had; and alſo all debts, whether in trade or otherwiſe, and in whatever manner and form ſecured, owing to the ſaid *C. L. P.* at the time of the execution of theſe preſents, and alſo, all other perſonal effects and property of what nature or kind ſoever, to the ſaid *C. L. P.* belonging at the time of the execution of theſe preſents; and all right, title, intereſt, benefit, equity of redemption, and claim and demand whatſoever of him the ſaid *C. L. P.* in or thereout, or in any part or parts thereof, in any manner appertaining: To have, hold, receive, take, poſſeſs and enjoy the ſaid houſehold, goods, furniture, plate, linen, books, china, ſtock in trade, debts, and other property, and effects hereinbefore granted and aſſigned, or expreſſed, or intended ſo to be, and all the benefit and advantage thereof, and every part thereof, unto him the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, as his own proper goods, chattels, MORTGAGE

MORTGAGE. debts, and monies from thenceforth for ever, upon the truſts nevertheleſs hereinafter expreſſed and declared, of and concerning the ſame, and it is hereby further declared and agreed, by and between the ſaid *C. L. P.* and the ſaid *B. I.* that it ſhall and may be lawful to and for the ſaid *B. I.* his executors, adminiſtrators and aſſigns, abſolutely to ſell and diſpoſe of the houſehold goods, furniture, plate, linen, books, china, ſtock in trade, and all other effects and property hereinbefore granted and aſſigned, or expreſſed, or intended ſo to be, in ſuch manner and form, whether by auction or otherwiſe, as the ſaid *B. I.* may think the moſt fit and likely to produce the beſt price that can be got for the ſame, ſo as the money ariſing by ſuch ſale, be applied by the ſaid *B. I.* in performance of the truſts hereinafter expreſſed and declared, of and concerning the ſame, and for the better enabling the ſaid *B. I.* his executors, adminiſtrators and aſſigns, to have, attain, recover, and receive the full benefit and advantage of this preſent aſſignment, ſubject to the truſts hereinafter expreſſed and declared, of and concerning the ſame; he the ſaid *C. L. P.* doth hereby make, ordain, conſtitute and appoint, and in his ſtead and place put and depute the ſaid *B. I.* his executors adminiſtrators and aſſigns, to be his true, lawful and irrevocable attorney and attornies in his name, to aſk, demand, ſue for, recover, and receive, acquit, releaſe and diſcharge, all and ſingular, the ſaid aſſigned property, and every part and parcel thereof, and alſo in his name to proſecute and carry on any ſuit or ſuits at law or in equity, for recovering

Power for aſſignee to will the premiſes.

and enforcing the payment of all ſuch debts due to him the ſaid *C. L. P.* in ſuch manner as he the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, ſhall think moſt proper, for recovering and enforcing the payment of the ſame, and to do and perform all other acts, matters and things whatſoever, which ſhall be needful or requiſite in, or concerning the diſpoſal and management of the before aſſigned property, or for the better executing the truſts hereinafter expreſſed or declared, of, or concerning the ſame as fully and effectually as the ſaid *C. L. P.* his executors, or adminiſtrators, or any of them, could, or might have done, had this aſſignment never been made, and the ſaid *C. L. P.* doth hereby covenant, promiſe, and agree to and with the ſaid *B. I.* his executors, and adminiſtrators, that he the ſaid *C. L. P.* hath not done, committed, or ſuffered, and that he, his executors or adminiſtrators will not, do, commit, or willingly ſuffer any act, matter, and thing, whereby the execution and performance of the truſts hereinafter expreſſed and declared, ſhall or may be prevented, defeated, hindered, or in any wiſe retarded or delayed, but on the contrary will do and perform all ſuch acts and things as ſhall be reaſonably required of him, for the further and better enabling of the ſaid *B. I.* his executors, adminiſtrators and aſſigns, to execute and diſcharge the ſame according to the true intent and meaning of theſe preſents. AND it is hereby declared and agreed, by and between the ſaid *C. L. P.* and the ſaid *B. I.* that as, for, and concerning the ſaid hereby aſſigned meſſuage or tenements and premiſes,

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Declaration that the aſſigned premiſes

MORTGAGE.

and the ſaid recited articles of agreement likewiſe hereby aſſigned, and alſo, that the ſaid houſehold goods, furniture, plate, linen, books, china, and ſtock in trade, as well in or about the ſaid meſſuage or tenement in ——— aforeſaid, as the ſaid houſehold goods, furniture, plate, linen, books, china, and ſtock in trade, in or about the ſaid meſſuage or tenement, and premiſes, called the ——— houſe, hereinbefore aſſigned, and alſo all the debts owing to the ſaid *C. L. P.* and all the other ſaid perſonal effects and property, of what nature or kind ſoever, hereinbefore aſſigned, and ſhall be held, received, taken and enjoyed by the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, to and for the uſes, intents, and purpoſes hereinafter particularly declared and expreſſed, (that is to ſay) in truſt, that the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, do, and ſhall from the ſums of money ariſing by the aſſignment, ſale, and collecting in, of all the ſaid reſpective property hereinbefore aſſigned, (after he or they ſhall be reimburſed and paid, ſuch coſts and charges as may be by him or them expended, in or about any ſuit or ſuits which he or they may deem neceſſary to be commenced, for the recovery of the hereinbefore aſſigned debts, or any part thereof, or otherwiſe, in relation to the execution of this truſt,) deduct and retain to the proper uſe, and benefit of him the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, ſuch ſum of lawful money of *Great Britain*, as may

ſhall be upon truſt to reimburſe the aſſignee all monies due to him, (*a*)

(*a*) See *Pow.* Mort. 41.

be equal, as well to the amount of the different respective sums, before recited to have been at divers times and places, already paid to and advanced for the use and benefit of the said *C. L. P.* by the said *B. I.* as also to the sums which the said *B. I.* his executors or administrators, may and shall hereafter raise, and pay in pursuance of the agreement hereinbefore recited, in discharge of the principal sum and interest thereon, due, conditioned to be paid, by virtue of the hereinbefore recited bond, and the respective sum or sums of like money, which he or the said *B. I.* for himself, his executors and administrators, have by the agreement hereinbefore recited, agreed according to the terms and conditions thereon expressed, to pay or cause to be paid unto all and each of the respective creditors of the said *C. L. P.* or the executors, administrators or assigns, of such creditors as he the said *C. L. P.* may be justly indebted to at the time and and execution of these presents, and after the said *B. I.* shall have deducted, and paid to himself, such sums of like money as aforesaid, then in trust, to pay the overplus, if any, to the said *C. L. P.* his executors, administrators or assigns. PROVIDED nevertheless, and it is hereby further declared and agreed, by the said *C. L. P.* and *B. I.* that should the said debts due from the said *C. L. P.* to his said respective creditors, amount to more than the said sum of —, or should exceed such sum as he the said *B. I.* his executors, administrators, or assigns, may be enabled to raise and collect from the assignment, sale, and collecting in of all the property hereinbefore transferred and assigned, then

MORTGAGE.

and pay the surplus to the assignor.

Proviso as to further surplus.

MORTGAGE. and in ſuch caſe, the hereby aſſigned, meſſuage, or tenements, and premiſes, and the ſaid recited articles of agreement, hereby likewiſe aſſigned, and all the ſaid houſehold goods, furniture, plate, linen, books, china, and ſtock in trade, as well in or about the ſaid meſſuage, or tenement, in ——— aforeſaid, as the ſaid houſehold goods, furniture, plate, linen, or china, and ſtock in trade, in or about the ſaid meſſuage, or tenement, and premiſes, called the ——— herein before aſſigned, and alſo all the debts owing to the ſaid *C. L. P.* and all the other ſaid perſonal effects and property hereinbefore aſſigned, ſhall be then had, held, received, taken and enjoyed by the ſaid *B. I.* his executors, adminiſtrators, and aſſigns, in truſt, that the ſaid *B. I.* his executors, adminiſtrators, or aſſigns, do and ſhall from the ſums of money ariſing, by the aſſignment, ſale, and collecting in of all the reſpective property hereinbefore aſſigned, (and after in like manner, he or they ſhall be reimburſed and repaid, ſuch coſts and charges as may be by him or them expended, in or about any ſuit or ſuits which he or they may deem neceſſary to be commenced for the recovery of the hereinbefore aſſigned debts, or any part thereof, or otherwiſe in relation to the execution of this truſt,) retain to the proper uſe of himſelf, the ſaid *B. I.* his executors, adminiſtrators or aſſigns, ſuch ſum of like money as may be equal as well to the amount of the different reſpective ſums before recited, to have been at divers times and places already paid to, and advanced for the uſe and benefit of the ſaid *C. L. P.* by the ſaid *B. I.* as alſo to the ſums which the ſaid

B. I. his executors or adminiſtrators, may and ſhall hereafter raiſe and pay in purſuance of the agreement hereinbefore recited, in diſcharge of the principal ſum and intereſt, thereon due, condition to be paid by virtue of the hereinbefore recited bond, and after the ſaid *B. I.* ſhall have deducted and paid to himſelf, ſuch ſums of like money as aforeſaid, then in truſt to pay the overplus, if any, to the ſaid *C. L. P.* his executors, adminiſtrators, or aſſigns, and to be wholly and entirely diſcharged from the hereinbefore recited agreement, to ſatisfy, pay off, and fully diſcharge any other of the ſaid debts of the ſaid *C. L. P.* the principal ſum and intereſt due on the hereinbefore recited bond only excepted. IN WITNESS, &c. MORTGAGE.

Aſſignment of Leaſehold Premiſes, and policy of Inſurance, as a collateral ſecurity for payment of an Annuity, with power to ſell, if in arrear, to pay Grantee his original Purchaſe Money, and all coſts, &c. and an Appointment of Receiver, with good covenants, &c.

AND THIS INDENTURE FURTHER WITNESSETH, that for the purpoſes and conſiderations aforeſaid, the ſaid *H. W.* and the ſaid *S. T.* by the like direction and requeſt of the ſaid *T. W.* have, and each of them hath, aſſigned, transferred, and ſet over unto the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, one inſtrument or policy of inſurance, No. ——, ——, whereby the ſaid meſ- Aſſignment of policy.

MORTGAGE.

ſuages or tenements hereinbefore expreſſed, to be hereby aſſigned, are inſured from loſs or damage by fire, in the —— inſurance office, for the ſum of ——, and all and every ſum and ſums of money by the ſame policy inſured, or recoverable thereupon, and all powers and remedies whatſoever, for recovery or receiving the ſame, and all benefit, and advantage, to ariſe, or be produced, from, or by means thereof, To have, hold, receive, and take the ſaid inſtrument or policy of inſurance, monies, and premiſes, laſt hereinbefore expreſſed to be hereby aſſigned, and every part thereof, unto the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, upon the truſts hereinafter declared, concerning the ſame. AND it is hereby declared and agreed, by and between the ſaid parties hereto, that the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, ſhall from henceforth ſtand poſſeſſed, of, and intereſted in the ſaid ſeveral pieces or parcels of ground, meſſuages, or tenements, policy of inſurance, monies, and premiſes hereinbefore expreſſed, to be hereby aſſigned, or intended ſo to be, upon the truſts, and for the intents and purpoſes hereinafter expreſſed and declared, concerning the ſame, (that is to ſay) upon truſt, that in caſe the ſaid annuity or yearly ſum of ——, or any part thereof, ſhould be behind and unpaid, by the ſpace of —— days next, over or after any of the ſaid days and times hereinbefore mentioned and appointed, for the payment thereof, then and ſo often as it ſhall ſo happen, it ſhall and may be lawful to and for the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, by, and out of the rents and

Upon truſt to pay annuity.

profits of the ſaid ſeveral pieces or parcels of &c. hereinbefore mentioned, and intended to be hereby aſſigned, or by demiſe, ſale, or mortgage thereof, and of the ſaid policy of inſurance, or for any of them, or for any part thereof, or by recovering and receiving ſuch monies as may become due to him or them, by means or in reſpect of the ſaid policy, or by all or any of the ſame ways and means, to raiſe and levy ſuch ſum and ſums of money as ſhall be ſufficient to pay and ſatisfy unto the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, the ſaid annuity or yearly ſum of ——— or ſo much thereof, as ſhall from time to time ſo happen to be in arrear and unpaid; or if at any time or times hereafter, default ſhall happen to be made in payment of the ſaid annuity, or yearly rent-charge, or ſum of ——, for the ſpace of 12 calendar months, after any of the ſaid days hereinbefore appointed for payment thereof, being lawfully demanded, that then and in either of the ſaid caſes, it ſhall and may be lawful to and for the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, to ſell, aſſign, and diſpoſe of the ſaid piece or parcel of ground, meſſuages or tenements, hereditaments and premiſes hereinbefore mentioned, or intended to be hereby aſſigned, or any part or parts thereof, for the beſt price or prices in money, that can or may be reaſonably had or gotten for the ſame, to any perſon or perſons whomſoever, either by public ſale, or private contract, and upon this further truſt, that the ſaid *T. W.* his executors, adminiſtrators and aſſigns, do and ſhall, by and out of the monies which ſhall be raiſed by ſuch ſale, or ſales as

MORTGAGE.

To ſell or mortgage.

MORTGAGE. aforeſaid, in the firſt place to pay and ratify unto the ſaid *O. Q.* his executors, adminiſtrators or aſſigns, the ſum of ——, now paid by him for the purchaſe of the annuity, yearly rent-charge, or ſum of ——, together with all arrears of the ſaid annuity which ſhall or may be then due or owing to him or them, and a proportionable part of the ſaid annuity for the time which ſhall have elapſed from the then laſt quarterly day of payment thereof, up to the then preſent time, and all coſts, charges, and expences whatſoever, which he, the ſaid *T. W.* his executors, adminiſtrators, or aſſigns, ſhall or may ſuſtain, expend, or be put unto, in, and about the execution of the ſaid truſts, and do and ſhall pay the reſidue of ſuch truſt money, if any, unto the ſaid *H. W.* his executors, adminiſtrators, or aſſigns, and then and in ſuch caſe the ſaid annuity, yearly rent-charge or ſum of —— ſhall ceaſe and determine; and the ſaid recited bond ſhall be delivered up to be cancelled, any thing herein contained to the contrary thereof in any wiſe notwithſtanding. And it is further declared and agreed by and between the ſaid parties to theſe preſents, and particularly by the ſaid *H. W.* that on the payment of the purchaſe money, or any part thereof, for which the ſaid premiſes hereby aſſigned, or any part thereof, ſhall be ſo ſold as aforeſaid, unto the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, by the perſon or perſons, who ſhall become the purchaſer or purchaſers of the ſaid premiſes, or any part thereof, that the receipt or receipts, of the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, for ſuch purchaſe money, or any part

To pay grantee his purchaſe money, and all arrears of annuity.

To pay reſidue to grantor.

That in caſe premiſes ſold,

thereof, ſhall be a good and ſufficient diſcharge, and good and ſufficient diſcharges, to the perſon or perſons, paying the ſame, for ſuch purchaſe money, in or for ſo much thereof, for which ſuch receipt or receipts ſhall be given. AND that it ſhall not afterwards be incumbent on ſuch purchaſer or purchaſers, to ſee his, her, or their purchaſe money applied for the purpoſes aforeſaid: And from and after full payment and ſatisfaction of the ſaid annuity, or yearly ſum of —, and all ſuch coſts, charges, damages, and expences, as aforeſaid, and in the mean time, until default ſhall happen to be made of, or in the payment of the ſaid annuity, the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, ſhall ſtand poſſeſſed of and intereſted in the ſaid ſeveral pieces or parcels of ground, meſſuages, or tenements, policy, monies, and premiſes, hereinbefore expreſſed to be hereby aſſigned, IN truſt for the ſaid *T. W.* his executors, adminiſtrators, and aſſigns. And the ſaid *H. W.* doth hereby for himſelf, his heirs, executors, and adminiſtrators, covenant, promiſe, and agree to and with the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, in manner following, (that is to ſay), that the ſaid hereinbefore in part recited indenture of leaſe, is a good and ſubſiſting leaſe, valid in the law, to all intents and purpoſes whatſoever, and not forfeited, ſurrendered, charged, or incumbered, in any wiſe howſoever, except as hereinbefore is mentioned. AND the ſaid *H. W.* now at the time of the ſealing and delivery of theſe preſents, hath in himſelf good right, full power, and lawful and abſolute authority, to bargain, ſell, and aſſign the

MORTGAGE.

Truſtees receipts to be ſufficient diſcharges for purchaſe money.

Purchaſers not obliged to ſee to the application thereof.

Until default in payment, truſtee to ſtand poſſeſſed of premiſes in truſt for grantor.

Covenant that leaſe is valid.

MORTGAGE.

Good right to assign.

said several pieces or parcels of ground, &c. hereinbefore mentioned and intended to be hereby assigned, and shall, or lawfully may, from henceforth and at all times hereafter during the said term of — years, remain, continue, and be vested in the said *T. W.* his executors, administrators, and assigns, upon the trusts, and for the intents and purposes hereinbefore expressed and declared of and concerning the same, and that free and clear, of and from all estates, titles, troubles, charges, and incumbrances whatsoever (save and except as aforesaid) and the payment of the rents, and the performance of the covenants and agreements contained in the said indenture of lease, which on the part of the lessee or assignee, are or ought to be observed and performed, and of and from the same rents, covenants, and agreements, and all costs, damages, and expences, on account of any neglect, or default in the payment or performance thereof respectively, which shall at any time hereafter happen to be made, shall and will, save, defend, and keep indemnified the said *T. W.* his executors, administrators, and assigns, and his and their lands, &c.

Covenant to keep premises insured;

And moreover, that during the continuance of the said annuity hereby secured, the said messuage, &c. hereby assigned, shall at all times be kept insured in the —— assurance office, or some other insurance office in ——, or ——, at the costs and charges of the said *H. W.* his executors, administrators, or assigns, in a sum not less than ——, in the whole, and that if at any time during the continuance of the said annuity hereby secured, the said *H. W.* shall neglect to in-

if neglected, and grantee insures such sums as he pays, to be a charge on premises.

ſure, or keep inſured the ſame meſſuages, &c. in the ſum of ——, it ſhall and may be lawful to and for the ſaid ——, his executors, adminiſtrators, or aſſigns, to inſure the ſame in the ſaid ———; and whatſoever ſum and ſums of money ſhall from time to time be ſo advanced, by the ſaid *O. Q.* his executors, adminiſtrators, and aſſigns, for the making or continuing ſuch inſurance or inſurances, the ſame ſhall be charged and chargeable, upon the ſaid meſſuages, &c. hereby aſſigned, with intereſt thereon, from the time or reſpective times of the advancement thereof, at the rate of 5 per cent. per annum, and that it ſhall be lawful to and for the ſaid *T. W.* his executors, adminiſtrators, or aſſigns, to raiſe, levy, pay, and ſatisfy, to himſelf and themſelves, all ſuch ſum and ſums of money, ſo to be advanced by him and them, with the intereſt therein in ſuch and the ſame manner as he, and they, is and are hereby authorized to raiſe and ſatisfy the ſaid annuity, or yearly ſum of —, by virtue of the truſts aforeſaid. AND alſo that the ſaid *H. W.* his executors, adminiſtrators, and aſſigns, and all and every other perſon and perſons, lawfully claiming or to claim any eſtate, right, title, or intereſt at law and in equity, of, into, or out of the ſaid piece or parcel of ground, &c. hereinbefore expreſſed to be hereby aſſigned, ſhall and will from time to time, and at all times hereafter, at his and their own proper coſts and charges, upon any reaſonable requeſt of the ſaid *H. W.* his executors, adminiſtrators, or aſſigns, make, do, and execute, or cauſe to be made, done, and executed, all and every ſuch further and other lawful

MORTGAGE.

Further aſſurance.

MORTGAGE. and reaſonable acts, things, aſſignments, conveyances, and aſſurances in the law whatſoever, for more perfectly aſſigning and confirming the ſaid piece or parcel of ground, &c. hereinbefore mentioned to be hereby aſſigned, and every part thereof, unto the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, for all the reſidue of the ſaid term of — years, upon the truſts and ſubject to the proviſo declared and contained, concerning the ſame, and for promoting and facilitating the execution and performance of the ſame truſts as by the ſaid *T. W.* his executors, adminiſtrators, or aſſigns, or his or their counſel in the law ſhall be reaſonably or lawfully deviſed, or adviſed and required. And alſo that in caſe the ſaid pieces or parcels of ground, &c. hereby granted and aſſigned, or intended ſo to be, ſhall be ſold in purſuance of the truſts hereinbefore declared for that purpoſe, he the ſaid *H. W.* his executors and adminiſtrators, if required, ſhall and will join in ſuch ſale, and execute the ſame conveyances of the premiſes, to be ſold unto the ſaid purchaſer or purchaſers thereof, his, her, and their executors, adminiſtrators, and aſſigns, or as he or they ſhall direct or appoint, and enter into all proper and reaſonable covenants with the purchaſer or purchaſers, his, her, or their executors, adminiſtrators, or aſſigns, for the title, poſſeſſion, and further aſſurance of the premiſes ſo to be ſold, ſo as that the joining of the ſaid *H. W.* his executors or adminiſtrators, in any ſuch ſale or ſales, conveyance or conveyances, ſo to be made and executed as aforeſaid, ſhall not in any wiſe be deemed eſſential or neceſſary to perfect the title of

Covenant that if truſtee ſells, grantor will join in ſuch conveyance, for ſatisfaction of purchaſer, though not neceſſary in fact.

the purchaſer or purchaſers of any part thereof, the ſame being intended for the further ſatisfaction only of each purchaſer or purchaſers. AND this indenture further witneſſeth, that for further ſecuring the regular payment of the ſaid annuity or yearly ſum of ——, at the times and in the manner hereinbefore mentioned, in that behalf and for the conſideration aforeſaid, the ſaid *H. W.* at the nomination of the ſaid *T. W.* teſtified by his being a party to, and ſealing and delivering theſe preſents, hath made, conſtituted, and appointed, and by theſe preſents doth make, conſtitute, and appoint the aforeſaid *T. W.* the lawful receiver and agent, and attorney of him the ſaid *H. W.* for him, and in his name, but for the purpoſes hereinafter directed, from time to time to collect and receive all and every the rent and profits of the ſaid piece, &c. hereby aſſigned of and from the ſeveral and reſpective tenants and occupiers thereof, when and as the ſame rents and profits ſhall from henceforth become due and payable, during the reſidue of the ſaid term of — years, and ſuch other terms and eſtates as ſhall be granted by any new leaſe or leaſes of the ſaid premiſes, if the ſaid *T. W.* and *S. H.* or either of them, ſhall ſo long live; and upon payment of the ſaid rents and profits, or of any part thereof, to make and give ſufficient acquittances and diſcharges for the ſame. And in caſe of non-payment thereof, or of any part thereof, to take ſuch lawful remedies by action, ſuit, diſtreſs, or otherwiſe, for recovery of the ſame, as he ſhall think neceſſary or proper in that behalf, and to do, perform, and execute all other acts, matters,

MORTGAGE.

Appointment of receiver, with full power to collect,

MORTGAGE.

and things, neceſſary and proper for collecting, recovering, and receiving the ſame rents and profits, and every or any part thereof. And the ſaid *H. W.* with the approbation of the ſaid *T. W.* teſtified as aforeſaid, doth hereby authoriſe, direct, and appoint the ſaid *F. W.* to pay, apply, and account for the rents and profits of the ſaid ſeveral pieces and parcels of ground, &c. for the purpoſes and in the manner following, (that is to ſay), to pay and reimburſe himſelf all ſuch coſts, charges, and expences, as he may be put to in collecting and receiving of the ſaid rents and profits, or any part thereof, together with a reaſonable recompenſe for his trouble therein; and in the next place to pay and diſcharge the ſaid yearly ground rent of —— reſerved in and by the ſaid indenture of leaſe, as and when the ſame ſhall become due; and in the next place to pay to the ſaid *T. W.* his executors, adminiſtrators, and aſſigns, the ſaid annuity or clear yearly ſum of —, at the days and times, and in the manner hereinbefore mentioned and appointed for the payment thereof, and in the next place to pay to and reimburſe the ſaid *O. Q.* his executors, adminiſtrators, and aſſigns, all ſuch ſum and ſums of money, coſts, and charges, as he, they, or any of them, ſhall or may pay or expend, for or by reaſon of inſuring or keeping inſured, the ſaid meſſuages, &c. from damage by fire, upon the neglect or refuſal of the ſaid *H. W.* his executors, adminiſtrators, or aſſigns, according to the covenant hereinbefore contained in that behalf, with intereſt in reſpect of the ſame, after the rate aforeſaid, and after payment of all arrears, as well of the ſaid yearly rent

and pay ſame in payment of his expences,

next the ground rentof leaſehold premiſes,

Then of annuities and inſurance money that grantee ſhall have paid.

of ——, as of the ſaid annuity or yearly ſum of —, and ſuch ſum and ſums of money, coſts, expences, and intereſt, ſo laſt hereinbefore directed to be paid. Then to account for, render, and pay over unto the ſaid *H. W.* his executors, adminiſtrators, and aſſigns, all the clear ſurplus of the ſaid rents and profits ſo to be collected and received over and above ſo much thereof as ſhall be ſo paid and applied as aforeſaid, and over and above ſo much thereof as ſhall be reſtrained or applied by the ſaid *F. W.* in ſatisfaction of his coſts, charges, and neceſſary expences, in collecting, receiving, paying, and remitting, the ſaid rents and profits according to the true meaning of theſe preſents. And the ſaid *H. W.* doth hereby, for himſelf, his heirs, executors, and adminiſtrators, covenant and agree to and with the ſaid *F. W.* his executors, adminiſtrators, and aſſigns, in manner following, (that is to ſay), that he the ſaid *H. W.* ſhall not, nor will at any time hereafter, during the lives of the ſaid *T. W.* and *F. H.* on the life of the ſurvivor of them, without the conſent of the ſaid *T. W.* his executors, adminiſtrators, or aſſigns, firſt had and obtained for that purpoſe in writing, under his and their hand or hands, revoke, alter, or make void, the power hereby given to the ſaid *F. W.*; or do, commit, or ſuffer, or cauſe to be done, committed, or ſuffered, any act, matter, or thing, whereby the ſame powers, or any of them, may become void; or the ſaid *F. W.* or any future receiver to be appointed as hereinafter is mentioned, may be obſtructed in, or prevented from, receiving and recovering the rents and profits of the ſaid meſ-

MORTGAGE.

Reſidue to grantor.

Covenant that grantor will not without approbation of grantor, his executors, and aſſigns, revoke this appointment.

During their joint lives and life of ſurvivor.

Or do any act by which it may become void, or receiver prevented collecting.

MORTGAGE.

In caſe of death of ——, &c. grantor covenants during his and grantee's life, to appoint any other perſon grantee his executors, &c. ſhall appoint.

ſuages, &c. for the purpoſes aforeſaid. AND further that if the ſaid *F. W.* ſhall happen to die, or ſhall be rendered incapable to collect and receive the ſaid rents and profits, or ſhall neglect or refuſe to act and proceed as ſuch receiver as aforeſaid, at any time before the death of the ſurvivor of the ſaid *T. W.* and *F. W.* then and inany of the ſaid caſes, he the ſaid *H. W.* his executors, adminiſtrators, or aſſigns, ſhall and will conſtitute and appoint ſuch other proper perſon or perſons as the ſaid *T. W.* his executors, adminiſtrators, or aſſigns, ſhall nominate and approve of, to be receiver and receivers of the ſaid rents and profits; which perſon or perſons ſo to be appointed ſhall collect, receive, and manage the ſame, in the manner and for the purpoſes aforeſaid, and ſo from time to time, and as often as any of the like caſes ſhall happen, before the death of the ſurvivor of the ſaid *T. W.* and *F. W.* AND the ſaid *F. W.* doth hereby for himſelf, his heirs, executors, and adminiſtrators, covenant and agree with the ſaid *T. W.* and *H. W.* and each of them, and the executors, adminiſtrators, and aſſigns of them and each of them, in manner following (that is to ſay), that he the ſaid *F. W.* ſhall and will from time to time pay and apply the money which ſhall come to his hands, by and from the rents and profits of the ſaid meſſuages, in the firſt place to and for the payment of the ground-rent of ——, reſerved by the ſaid indenture of leaſe, and in the next place to and for the payment of the ſaid annuity or yearly ſum of —, and all ſuch ſum and ſums of money, coſts, and expences, as the ſaid *T. W.* his executors, adminiſtrators, or

Such perſons to collect for the purpoſes aforeſaid, and ſo on any ſuch event happening.

Covenant from truſtee to receive and apply ſame on the aforeſaid truſts.

aſſigns, or any of them, ſhall pay or expend for inſuring the ſaid meſſuages, &c. or any of them, from damage by fire, as hereinbefore is mentioned, with intereſt for the ſame ſum and ſums of money, coſts, and expences, as aforeſaid; and then, and in ſuch caſe, well and truly account for, anſwer, and pay to the ſaid *H. W.* his executors, adminiſtrators, and aſſigns, all the clear ſurplus of the rents and profits which ſhall be ſo collected and received by the ſaid *T. W.* as aforeſaid, over and above ſo much thereof as ſhall from time to time be paid, as laſt hereinbefore is mentioned, and as ſhall be retained and applied by the ſaid *F. W.* in ſatisfaction of his neceſſary charges and expences collecting, receiving, paying, and remitting the ſaid rents and profits, or any of them, according to the true intent and meaning of theſe preſents. In witneſs, &c.

Aſſignment of perſonal Eſtate for the Benefit of Creditors.

THIS INDENTURE of three parts, made, &c. Between *C. T.* of, &c. of the firſt part; *L. I.* of, &c. and *D. I.* of &c. creditors of the ſaid *C. T.* of the ſecond part; and the ſeveral other perſons whoſe names and ſeals are hereunto ſubſcribed and fixed, creditors alſo of the ſaid *C. T.* of the third part. Whereas the ſaid *C. T.* is indebted unto the ſaid ſeveral perſons parties hereto, of the

CREDITORS.

ſecond and third parts, and in the ſeveral ſums of money ſet oppoſite to their reſpective names, and being unable to pay the whole of ſuch debts, he has propoſed and agreed to aſſign all his eſtate and effects unto the ſaid *L. I.* and *D. I.* upon truſt, for the benefit of themſelves and the reſt of his ſaid creditors, in the manner hereinafter mentioned. NOW THIS INDENTURE WITNESSETH, that in purſuance and performance of the ſaid propoſal and agreement, and in conſideration of the ſum of 5s. of lawful money of *Great Britain*, to the ſaid *C. T.* in hand, at or before the ſealing and delivery of theſe preſents, well and truly paid by the ſaid *L. I.* and *D. I.* the receipt whereof is hereby acknowledged; and alſo in conſideration of the releaſe hereinafter contained, he the ſaid *C. T.* hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *L. I.* and *D. I.* their executors, adminiſtrators, and aſſigns, all and ſingular the ſtock in trade, houſehold goods, furniture, implements, debts, ſums and ſum of money, books of account, and other things due and owing to the ſaid *C. T.* and all the perſonal eſtate and effects whatſoever, of him the ſaid *C. T.* and all his eſtate and intereſt therein, to have, hold, receive, perceive, and take the ſame unto the ſaid *L. I.* and *D. I.* their executors, adminiſtrators, and aſſigns, upon truſt, that they, or the ſurvivor of them, his executors or adminiſtrators, do and ſhall, as ſoon as conveniently may be, make ſale, and diſpoſe of ſo much, and ſuch part thereof, as are in their na-

Indenture witneſſeth.

Aſſignment of ſtock in trade, &c. to truſtees,

upon truſt to ſell the ſame,

ture ſaleable, for the beſt price or prices, in money, that can be reaſonably had or obtained for the ſame; and do and ſhall collect and get in ſo much thereof as are outſtanding, and not in their nature ſaleable. And it is hereby declared and agreed, that the ſaid *L. I.* and *D. I.* and the ſurvivor of them, and the executors and adminiſtrators of ſuch ſurvivor ſhall ſtand poſſeſſed of and intereſted in the monies to ariſe by ſuch ſale or ſales, and to be called in and received as aforeſaid, upon truſt, and to the intent that they or he ſhall and do in the firſt place pay, and retain to, and reimburſe themſelves or himſelf all coſts, charges, and expences, as they reſpectively ſhall or may pay, ſuſtain, or expend, in or about ſuch ſale or ſales, ſo to be made as aforeſaid, or collecting or getting in the debts and ſums of money mentioned to be hereby aſſigned as aforeſaid, and do and ſhall thereout alſo pay the expence of preparing and executing theſe preſents, and all other coſts, charges, and expences, incident to, or which may be incurred or ſuſtained in or about the execution of the truſts herein expreſſed, or any of them, and then in truſt, that they the ſaid *L. I.* and *D. I.* and the ſurvivor of them, his executors and adminiſtrators, do and ſhall apply the reſidue of the ſaid truſt monies in or towards payment and ſatisfaction of the ſeveral debts and ſums of money due to themſelves and the ſaid ſeveral perſons parties hereto, *pari paſſu*, and without any preference or priority of payment. And after payment or ſatisfaction of the whole of ſuch debts, and of ſuch coſts, charges, and ex-

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and apply the produce, after paying expences,

in payment of the debts of the aſſignor.

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pences, as aforeſaid, then, in truſt, that they the ſaid *L. I.* and *D. I.* or the ſurvivor of them, his executors or adminiſtrators, do and ſhall pay the ſurplus of the ſaid truſt monies, (if any,) unto the ſaid *C. T.* his executors, adminiſtrators, or aſſigns, and for the conſiderations and purpoſes aforeſaid, the ſaid *C. T.* hath made, conſtituted, and appointed, and by theſe preſents doth make, ordain, conſtitute, and appoint, and in his the ſaid *C. T.*'s place and ſtead put and depute the ſaid *L. I.* and *D. I.* and the ſurvivor of them, his executors and adminiſtrators, his true and lawful attornies and attorney, jointly and ſeverally, in the name of him the ſaid *C. T.* or otherwiſe to adjuſt, ſettle, and liquidate all accounts, as well relating to the premiſes, and from time to time to collect, get in, and uſe, and take all or any legal or equitable means, courſe, or expedient, for the recovery and receipt of all the debts and ſums of money mentioned to be hereby aſſigned as aforeſaid, and upon receipt thereof, or of any part thereof, receipts, acquittances, and other effectual diſcharges for the ſame, or ſo much thereof reſpectively, as ſhall be then acknowledged, or expreſſed to have been received, to make, ſign, ſeal, and deliver, and to compound for any bad, deſperate, or dubious debt or debts, and one or more attorney or attornies, agent or agents, under them, or either of them, for all or any of the purpoſes aforeſaid, from time to time, to appoint, and again at his or their pleaſure to diſplace,

Letter of attorney to act in the premiſes (*a*).

(*a*) See ante p. 10.

and further to do and execute all and every other act and acts requiſite or expedient to be done in or about the premiſes, as fully and amply, to all intents and purpoſes, as he the ſaid *C. T.* might or could do, or have done, in his own proper perſon, if theſe preſents had not been made. And the ſaid *C. T.* for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree, to and with the ſaid *L. I.* and *D. I.* their executors and adminiſtrators, by theſe preſents, in manner following, viz. that he the ſaid *C. T.* his executors and adminiſtrators, ſhall and will, at all times hereafter, juſtify and allow, ratify and confirm, all and whatſoever the ſaid *L. I.* and *D. I.* and the ſurvivor of them, and the executors or adminiſtrators of ſuch ſurvivor ſhall lawfully do, or cauſe to be done in or about the premiſes, and ſhall not nor will revoke or make void, all or any of the powers hereby given, or in purſuance of theſe preſents to be given to the ſaid *L. I.* and *D. I.* or the ſurvivor of them, his executors or adminiſtrators, nor releaſe, diſcharge, or compound for all or any of the debts and ſums of money mentioned and intended to be hereby aſſigned as aforeſaid, nor ſue for or intermeddle with the ſame or any part thereof, nor do any thing whereby the recovery thereof, or any of them, or of any part or parts thereof, nor otherwiſe act or interfere in or about the premiſes, further or other than the ſaid *L. I.* and *D. I.* or the ſurvivor of them, his executors or adminiſtrators ſhall deſire or require. PROVIded always, and it is hereby declared and agreed by and between all the ſaid parties, to theſe pre-

Covenant by aſſurance to aſſiſt in the execution of the truſts.

Truſtees empowered to retain their expences.

CREDITORS.

ſents, that it ſhall and may be lawful to and for the ſaid *L. I.* and *D. I.* their reſpective executors, adminiſtrators, by and out of all or any of the monies which by virtue of any of theſe preſents ſhall come to their or any of their hands, to deduct, retain, and reimburſe themſelves reſpectively, and their reſpective co-truſtees, all ſuch coſts, charges, or expences, as they ſhall or may reſpectively ſuſtain or be put unto, in or about the execution of all or any of the truſts hereby in them repoſed. AND ALSO, that they the ſaid *L. I.* and *D. I.* and their reſpective executors and adminiſtrators ſhall be charged and chargeable every of them for and with his own reſpective receipts, payments, acts, and wilful defaults, and not otherwiſe, and ſhall not be charged or chargeable with or for any ſum or ſums of money, other than ſuch as ſhall actually and reſpectively come to his or their hands, nor with or for any loſs or damage which ſhall or may happen in or about the execution of all or any of the truſts aforeſaid, without their reſpective wilful default. AND this indenture further witneſſeth, that in conſideration of the ſeveral premiſes, the ſeveral perſons of the ſecond and third parts, have and every of them hath remiſed, releaſed and for ever quitted claim, and by theſe preſents do, and every of them doth remiſe, releaſe, and for ever quit claim unto the ſaid *B. I.* his heirs, executors, and adminiſtrators, the ſeveral debts and ſums of money mentioned and hereunder written oppoſite to their reſpective names, and all actions, ſuits, claims, and demands whatſoever, in reſpect or on account thereof. In witneſs, &c.

and each to be chargeable only for his own acts.

Indenture further witneſſeth.

Creditors releaſe their debts.

Assignment of two Terms to attend the Inheritance.

THIS INDENTURE made, &c. between *W. C.* of, &c. and *S. H.* of, &c. (executors named in the laſt will and teſtament of the reverend *E. C.* rector of ——, in the county of ——, doctor of laws, and one of the prebends of the cathedral church of ——, in the county of ——, deceaſed, who ſurvived the reverend *D. J.* vicar of ——, in the county of ——, clerk, deceaſed, of the firſt part, *S. I.* late of the pariſh of ——, in the ſaid county of ——, but now of the kingdom of ——, eſq. who has ſurvived *A. J.* late of ——, in the county of ——, eſq. deceaſed, of the ſecond part, *H. H.* of ——, in the pariſh of ——, in the ſaid county of ——, and *C. S.* of ——, in the city of ——, ſurgeon, (the executors named in the laſt will and teſtament of *T. G.* late of ——, eſq. deceaſed, who was the only executor named in the laſt will and teſtament of *B. R.* late of ——, in the ſaid county of ——, eſq. alſo deceaſed) of the third part, the honourable *M. I.* commonly called lord viſcount *H.* of the fourth part, the right honourable *V. F.* earl of ——, (late lord *O.*) in the kingdom of ——, *P. C.* of ——, in the ſaid county of ——, eſq. *S. L.* of ——, in the ſaid county of ——, eſq. and *S. E.* of ——, in the ſaid county of ——, eſq. (truſtees and executors named in the laſt will and teſtament of the right honourable *M. G.* late earl of *H.* deceaſed) of the fifth part, ſir *G. R.* of ——, &c. [*Reciting the late earl of H's marriage ſettlement with Miſs D. of the* ——

TERMS.

Statement of the recitals.

day of ——, *and the marriage and death of lady H. leaving three daughters; that two of ſuch daughters died infants and unmarried, and the other married H. L.; alſo reciting H. L.'s marriage ſettlement of the* —— *day of* ——; *the death of lady C. viſcounteſs* ——, *leaving iſſue by the ſaid L. the honourable G. E. their only ſon, now an infant under the age of* 21 *years, and one daughter, named M. C.*] [*Recital of the mortgage of the farm at* ——, *for* —— *years, dated* ——. *Recital of the death of the truſtees of the* —— *years term, and that ſame is veſted in Mr.* — *and* — *as executors of the ſurviving truſtees. Recital of the late lord H's will of the* — *of* ——, *and a codicil of the* — *of* ——, *reciting the parties death on the* — *of* ——. *Recital of a bill being filed for carrying the truſt of the will into execution. Recital of a decree in* ——, *for a ſale of* — *eſtates which were ſold to G. M. for* ——, *and he was afterwards confirmed the beſt purchaſer, which purchaſe was made by him for ſir P. G. knight. Recital of the maſter's report of the* —— *of* ——, *which was afterwards duly confirmed. Recital of a decree for the ſale of the* —— *eſtate of the* — *of* —, *and that ſir G. was the beſt purchaſer for £*——, *and the report confirmed, and the timber £*——, *making together £*——. *Recital that this money was paid into the bank, on the* — *of* ——. *Recital of ſir G. R's conveyance.*] AND WHEREAS by indentures of leaſe and releaſe, the leaſe bearing date the day next before the date of the releaſe, and the releaſe bearing even date with theſe preſents, and made, or expreſſed to be made between the ſaid *F.* earl of ——, *P. C. S. L.* and *S. C.* of the

Indentures of leaſe and releaſe, by which certain eſtates conveyed in fee.

one part, and the ſaid ſir *G. R.* of the other part, TERMS. they the ſaid *I.* earl of ——, *P. C. S. L.* and *S. E.* have in purſuance of and in obedience to the ſaid recited order of the — day of ——, and the ſaid ſeveral ſubſequent orders of the ſaid Court of Chancery; and in conſideration of the ſaid ſeveral ſums of ——, and ——, amounting together to the ſum of ——, ſo paid by the ſaid ſir *G. R.* into the bank, in the name and with the privity of the ſaid accountant general as aforeſaid, and other the conſiderations therein mentioned, granted, bargained, ſold, releaſed, and conveyed the ſaid manor or lordſhip of ——, and all the freehold meſſuages, lands, tenements, rectories, tithes, advowſons, hereditaments, and premiſes, in the ſaid county of ——, of which the ſaid ſir *G. R.* was reported the beſt purchaſer as aforeſaid, unto and to the uſe of him the ſaid ſir *G. R.* his heirs and aſſigns for ever, ſubject to and chargeable with the annuities or yearly ſums hereinafter mentioned, which are charged on, and iſſuing and payable out of ſeveral of the meſſuages, lands, and hereditaments in ——, as aforeſaid, in the ſaid county of ——, (that is to ſay,) an annuity or yearly ſum of ——, to *P. T.* gent. and his aſſigns, during his life, and alſo another annuity or yearly ſum of —, to *T. P.* eſq. and his aſſigns, during his life, and likewiſe another annuity or yearly ſum of ——, to *T. B.* wife of the ſaid *P. P.* and her aſſigns during her life. NOW THIS INDENTURE WITNESSETH, that in conſideration of the ſaid ſum of ——, — paid by the ſaid ſir *G. R.* into the bank as aforeſaid, and alſo for and in conſideration of the

TERMS.

Conſideration.

ſum of 10s. of like lawful money to the aforeſaid *C. W.* and *H. S.* well and truly paid by the ſaid *B. A.* at or immediately before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, they the ſaid *C. W.* and *H. S.* with the privity of the aforeſaid *S. H.* and with the conſent and by the direction as well of the ſaid *I.* lord viſcount ——, as of the ſaid *F.* earl of ——, *P. C. S. L.* and *S. E.* and upon the nomination and appointment of the ſaid ſir *G. R.* teſtified by their ſeverally being parties to and ſealing and delivering theſe preſents, Have, and each of them hath bargained, ſold, aſſigned, transferred and ſet over, and by theſe preſents do, and each of them doth bargain, ſell, aſſign, tranſfer and ſet over, unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, all that the ſaid manor or lordſhip of ——, and all and ſingular the meſſuages, lands, tenements, rectories, tithes, advowſons, and hereditaments whatſoever, ſituate, lying, and being, and ariſing in the ſaid county of ——, which are in and by the ſaid recited indenture of the — day of —, limited in uſe to the aforeſaid *C. E.* and *D. I.* their executors, adminiſtrators, and aſſigns, for the ſaid term of —— years, upon the truſts and for the purpoſes therein and hereinbefore mentioned, with their rights, members and appurtenances, and all the right, title, intereſt, term of years yet to come and unexpired, claim and demand whatſoever, of them the ſaid *C. W.* and *H. S.* and each of them, of, in, or to the ſaid manor or lordſhip, meſſuages, lands, tenements, rectories, tithes, advowſons, and premiſes, and

Aſſignment of term.

TERMS.

every of them, and every part and parcel thereof, To have and to hold, all and every the ſaid manor or lordſhip, meſſuages, lands, tenements, rectories, tithes, advowſons, and other the premiſes, hereinbefore aſſigned or mentioned, or intended ſo to be, with their appurtenances unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, for and during all the reſidue and remainder of the ſaid term of —— years, which is yet to come and unexpired, in truſt, nevertheleſs for the ſaid ſir *G. R.* his heirs and aſſigns, and to be made uſe of as he or they ſhall direct or appoint, and in the mean time, to wait upon, attend, and go along with the reverſion and inheritance of the ſame premiſes, in order to protect and defend the ſame, from and againſt all meſne or intervening charges and incumbrances, (if any ſuch there be) other than and except the aforeſaid three ſeveral annuities or yearly ſums of ——, ——, and ——, the ſaid *P. I. T. P.* and *T. B.* during their reſpective lives, and the ſaid *C. W.* for himſelf, his heirs, executors, and adminiſtrators, and the ſaid *H. S.* for himſelf, his heirs, executors, and adminiſtrators, do, and each of them doth ſeverally and reſpectively, and not jointly, or the one for the other of them, or for the acts, deeds, heirs, executors or adminiſtrators, of the other of them, but each of them for himſelf, and for his own acts, deeds, heirs, executors, and adminiſtrators only, covenant, promiſe, and agree, to and with the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, by theſe preſents, that the ſaid *C. W.* and *H. S.* or either of them, have not at any time heretofore, made, done, commit-

Habendum to B A his executors, adminiſtrators, and aſſigns.

In truſt for the ſaid ſir G. R. & to attend the inheritance.

Covenant that the aſſignors have done no act to incumber.

TERMS. ted, or executed, or wittingly or willingly permitted, or ſuffered any act, deed, matter, or thing, whatſoever, whereby or wherewith, or by reaſon or means whereof the ſaid manor or lordſhip, meſſuages, lands, tenements, rectories, tithes, advowſons, and premiſes, herein aſſigned, or mentioned, or intended ſo to be, or any of them, or any part or parcel thereof, are, or is, may, can, or ſhall be anywiſe impeached, charged, affected, or incumbered, in title, eſtate, or otherwiſe, howſoever. AND this indenture alſo witneſſeth, that in conſideration of the ſaid ſeveral ſums of money ſo paid by the ſaid *G. R.* into the bank as aforeſaid, and alſo for and in conſideration of the ſum of 10s. of like lawful money to the aforeſaid *H. H.* and *C. S.* well and truly paid by the ſaid *B. A.* at or immediately before the ſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged, they the ſaid *H. H.* and *C. S.* with the conſent and approbation of the ſaid *J.* lord viſcount —, and at the requeſt, and by the direction of the ſaid *F.* earl of ——, *P. C. S. L.* and *S. E.* and upon the nomination and appointment of the ſaid ſir *G. R.* teſtified in manner aforeſaid, have, and each of them hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents, do, and each of them doth bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, all thoſe the the aforeſaid cottages, and five ſeveral parcels of incloſed ground, and three acres of woods, and other the premiſes in and by the hereinbefore recited indenture of the —— day of ——, granted

Indenture further witneſſeth.

Conſideration.

Transfer.

and demiſed unto the aforeſaid *L. W.* his executors, adminiſtrators, and aſſigns, for the ſaid term of —— years, and which by the aforeſaid indenture of the —— day of ——, were aſſigned or mentioned, or intended to be aſſigned to the ſaid *B. R.* his executors, adminiſtrators, and aſſigns, for the then reſidue and remainder of the ſaid term, in truſt, for the ſaid *M. G. D.* earl of ——, and heirs, as hereinbefore is mentioned, with their appurtenances, and all the eſtate, right, title, intereſt, term of years yet to come, and unexpired, claim and demand whatſoever, of them, the ſaid *H. H.* and *C. S.* and each of them, of, in, and to the ſaid cottages, parcels of ground and wood, and other the premiſes, and every of them, and every part and parcel thereof, To have and to hold all the ſaid cottages, parcels of ground and wood, and other the premiſes laſt hereby aſſigned or mentioned, or intended ſo to be, with their appurtenances unto the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, for and during all the reſt, reſidue, and remainder of the ſaid term of —— years, which is yet to come and unexpired, in truſt, nevertheleſs, for the ſaid ſir *G. R.* his heirs and aſſigns, and to be made uſe of, as he or they ſhall direct or appoint, and in the mean time, to wait upon, attend, and go along with the reverſion and inheritance of the ſame premiſes, in order to protect and defend the ſame, from and againſt all meſne or intervening charges and incumbrances, if any ſuch there be, and the ſaid *H. H.* for himſelf, his heirs, executors, and adminiſtrators, and the ſaid *C. S.* for himſelf, heirs, executors, and

TERMS.

Habendum for reſidue of ſaid term,

to attend the inheritance.

ANNUITIES.

adminiſtrators, do, and each of them doth ſeverally and reſpectively, and not jointly, or the one for the other of them, or for the acts, deeds, heirs, executors, or adminiſtrators, of the other of them, but each of them for himſelf, and for his own acts, deeds, heirs, executors, and adminiſtrators, only covenant, promiſe and agree, to and with the ſaid *B. A.* his executors, adminiſtrators, and aſſigns, by theſe preſents, that they the ſaid *H. H.* and *S. C.* or either of them, have not, and hath not at any time heretofore, made, done, committed, or executed, or wittingly or willingly permitted or ſuffered any act, deed, matter or thing whatſoever, whereby or wherewith, or by reaſon or means whereof the ſaid cottages, parcels of ground, and wood, and other the premiſes laſt hereby aſſigned, or mentioned, or intended ſo to be, or any of them, or any part or parcel thereof, are, or is, or may, can, or ſhall be any ways impeached, charged, affected, or incumbered, in title, eſtate, or otherwiſe howſoever. In Witness, &c. &c.

Covenant that aſſignors have done no act to incumber.

Aſſignment of an Annuity ſecured upon the Dividends of Money in the Funds.

This indenture made — day of ——, in the year of our Lord ——, between the Rev. *S. R.* of ——, in the pariſh of ——, in the county of ——, clerk, of the one part, and *H. A. F.* of ——, in the ſaid county, widow, of the other part; Whereas in and by a certain indenture bearing date the —

day of —, which was in the year of our Lord —, and expreſſed to be made between *S. J.* of ——, in the ſaid county, gent. of the one part, and the ſaid *S. R.* of the other part, and duly enrolled in the high court of Chancery, (according to the ſtatute, in ſuch caſes provided), the ſaid *S. J.* for the conſiderations therein mentioned did grant, and by a certain bond or obligation, and warrant of attorney, to confeſs judgment, bearing *even date with the ſaid recited indenture*, and alſo, duly enrolled as aforeſaid, did ſecure unto the ſaid *S. R.* his executors, adminiſtrators and aſſigns, an annuity or clear yearly ſum of ——, of lawful Britiſh money, to commence from the date of the ſaid recited indenture, and to be payable out of and chargeable upon a certain ſum of ——, 5-per cent, navy bank annuities in the ſaid indenture, more particularly deſcribed during the term of the natural life of the ſaid *S. J.* at the times and in the manner therein mentioned, but ſubject to redemption by the ſaid *S. J.* as in the ſame indenture is provided: And whereas the ſaid *H. A. F.* hath contracted with the ſaid *S. R.* for the purchaſe of the ſaid annuity, for the price or ſum of —. Now therefore, this indenture witneſſeth, That in purſuance and completion of ſuch contract, and for and in conſideration of the ſum of ——, of lawful money of the united kingdom of *Great Britain* and *Ireland*, current in *England*, paid by the ſaid *H. A. F.* immediately before the execution of theſe preſents, unto the ſaid *S. R.* (and from the payment of ſuch ſum of ——, the ſaid *S. R.* doth hereby releaſe and diſcharge the ſaid *H. A. F.* her

Recital of the grant.

ANNUITIES.

executors, adminiſtrarors and aſſigns,) he the ſaid *S. R.* hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *H. A. F.* her executors, adminiſtrators and aſſigns; the ſaid annuity or clear yearly ſum of ——, of lawful Britiſh money, granted by the ſaid *S. J.* to the ſaid *S. R.* in and by the ſaid recited indenture of the — day of ——, with all arrears of the ſame annuity or yearly ſum, and alſo, the ſaid recited indenture, bond, or obligation, and warrant of attorney, to confeſs judgment: To have, receive and enjoy the ſame annuity or clear yearly ſum of ——, (ſubject to redemption, as in the ſaid indenture is mentioned,) henceforth for and during the natural life of the ſaid *S. J.* and that as fully, abſolutely, and beneficially to all intents and purpoſes whatſoever, as he the ſaid *S. R.* might have received and enjoyed the ſame if theſe preſents had not been made; And the ſaid *S. R.* for himſelf, his heirs, executors and adminiſtrators, doth hereby covenant with the ſaid *H. A. F.* her executors, adminiſtrators and aſſigns, that the ſaid annuity or clear yearly ſum of —, granted in and by the ſaid recited indenture, and intended to be hereby aſſigned, is now ſubſiſting and unredeemed, and good and valid both in equity and at law; and that he the ſaid *S. R.* hath at the time of executing theſe preſents good right and full power, and authority to bargain, ſell, and aſſign the ſaid annuity or clear yearly ſum of ——, and other the premiſes intended to be hereby aſſigned unto the ſaid *H. A. F.* her executors, adminiſtrators and

Aſſignees.

Covenants for the title.

aſſigns, in manner aforeſaid, and according to the true intent and meaning of theſe preſents; and alſo, that he the ſaid *S. R.* hath not before the execution of theſe preſents, made, done, or executed, or knowingly ſuffered any act, deed, matter, or thing whatſoever, whereby or by means, or in conſequence of which, all or any of the premiſes intended to be hereby bargained, ſold, or aſſigned, or is, are, or can, or may be charged, impeached, incumbered or prejudicially affected in any way whatever, or the ſaid recited bond or obligation, and warrant of attorney, or either of them have or hath been, or are, is, or can be in any way aſſigned, ſatisfied, releaſed, diſcharged, cancelled, vacated, or extinguiſhed, either at law, or in equity, or by, or in conſequence of which the ſaid *H. A. F.* her executors, adminiſtrators, or aſſigns, ſhall, may, or can be prevented or hindered from having received or taken the ſaid annuity, or yearly ſum, or any part thereof now due, or as and when the ſame ſhall from time to time hereafter become due and payable according to the ſaid recited indenture, and the condition of the ſaid bond or obligation, or the benefit of the ſaid judgment to be entered up by virtue of the ſaid warrant of attorney: And alſo, that he the ſaid *S. R.* his executors and adminiſtrators ſhall and will at any time or times hereafter at the requeſt and expence of the ſaid *H. A. F.* her executors, adminiſtrators and aſſigns, or any of them, do and execute all ſuch further, lawful and reaſonable acts and deeds, for the more perfectly and abſolutely aſſigning the premiſes intended to be hereby aſſigned, and every

ANNUITIES.

of them unto the ſaid *H. A. F.* her executors, adminiſtrators and aſſigns, as by her, or their, or any of their counſel in the law ſhall be reaſonably required or adviſed: And alſo, that in caſe the ſaid *S. J.* or any perſon or perſons on his behalf, ſhall actually redeem or re-purchaſe the ſaid annuity or yearly ſum of ——, by virtue and in purſuance of the proviſion in the ſaid recited indenture for that purpoſe contained: He the ſaid *S. R.* his executors, adminiſtrators, or aſſigns, or ſome of them ſhall and will on the requeſt of the ſaid *H. A. F.* her executors, adminiſtrators, or aſſigns, well and truly pay, or cauſe to be paid unto her or them, ſo much money as the ſum ſo to be paid to her or them by the ſaid *S. J.* or any perſon or perſons on his behalf, on redeeming or repurchaſing the ſaid annuity or yearly ſum of ——, ſhall fall ſhort of the ſaid ſum of ——, after deducting from ſuch ſum of ——, the ſum of ——, for each and every year in which the ſaid *H. A. F.* her executors, adminiſtrators, or aſſigns, or any of them ſhall receive ſuch annuity or yearly ſum of ——, and ſo in proportion for any leſs time than a year; and further, that he the ſaid *S. R.* will not at any time revoke the power of attorney hereinafter by him given to the ſaid *H. A. F.* her executors, adminiſtrators and aſſigns: And laſtly, for the conſiderations aforeſaid, he the ſaid *S. R.* hath appointed and conſtituted, and by theſe preſents doth appoint and conſtitute the ſaid *H. A. F.* her executors, adminiſtrators and aſſigns, his true and lawful attorney and attornies irrevocable in his name, but to the ſole uſe and be-

nefit, and at the coſts and charges of the ſaid *H. A. F.* her executors, adminiſtrators and aſſigns, to demand, ſue for, recover, and receive of and from him the ſaid *S. J.* his executors, adminiſtrators or aſſigns, or any of them, the penal ſum in which the ſaid *S. J.* bound or obliged himſelf in and by the ſaid recited bond or obligation, whenever any breach ſhall happen to be made in the condition ſubſcribed to ſuch bond or obligation, or to which ſuch bond or obligation was, or is ſubjected. IN WITNESS, &c. LEGACY.

*** Aſſignments of annuities in any memorial thereof need not be enrolled. See Dixon *v.* Birch, 2. *Hen. Blac.* 307. and Bromly *v.* Greathead, there cited.

The Operative Part of an Aſſignment of a Share of the reſiduary Property of a Teſtator, Part of which had been before diſpoſed of, with a very Special Power to receive it.

AND WHEREAS, the ſaid debts or ſums of money, payment whereof was meant to be provided for by the ſaid indenture of aſſignment of the ſaid — day of ——, have ſince, by virtue of the truſts of the indenture, been in part paid off and ſatisfied, but not wholly, but the ſeveral debts and ſums of money ſecured by the ſaid here- Contract.

LEGACY. inbefore in part recited indentures of aſſignment, of the —— and —— days of ——, now laſt paſt, are ſtill wholly unpaid and undiſcharged. AND whereas, the ſaid *H. I.* hath contracted and agreed with the ſaid *H. S.* for the ſale to him of two fifth parts, (the whole into five equal parts to be divided) of all his the ſaid *W. I*'s. ſhare and intereſt under or by virtue of the ſaid will and codicil of the ſaid *W. A.* deceaſed, of the reſidue of the real and perſonal eſtates of the ſaid *W. A.* deceaſed, except the ſum of ———, 3 per cent. conſolidated bank annuities, now ſtanding in the name of the accomptant-general of the ſaid Court of Chancery, in truſt in the ſaid cauſe, and ſuch

Aſſignment, contingent and reverſionary intereſt as may accrue to the ſaid *W. I.* by the death of the ſaid *W. F.* or the marriage of the ſaid *W. F.* at or for the price or ſum of ———. NOW THIS INDENTURE WITNESSETH, that in purſuance and performance of the ſaid agreement, and for and in conſideration

Conſideration, of the ſum of ——, of lawful money of Great Britain, by the ſaid *H. S.* to the ſaid *W. I.* in hand, well and truly paid at or before the ſealing and delivery of theſe preſents, the receipt whereof, he, the ſaid *W. I.* doth hereby acknowledge, and of and from the ſame, and every part thereof, doth acquit, releaſe, and diſcharge, the ſaid *H. I.* his executors, adminiſtrators, and aſſigns, and every of them, for ever by theſe preſents, he, the ſaid *W. I.*

Transfer. hath bargained, ſold, aſſigned, transferred, and ſet over, and by theſe preſents doth bargain, ſell, aſſign, transfer, and ſet over unto the ſaid *H. S.* his executors, adminiſtrators, and aſſigns, two fifth

parts, or ſhares (the whole into five equal parts to be divided) of and in the part, ſhare, right, title, intereſt, claim, and demand whatſoever, both at law and in equity, of him, the ſaid *W. I.* of, in, and to all the reſiduary eſtate, and effects, late of the ſaid *W. A.* deceaſed, under or by virtue of his ſaid will and codicil, and the ſaid decree, or otherwiſe howſoever, ſave and except the ſaid ſum of ——, 3 per cent. conſolidated bank annuities, now ſtanding in the name of the ſaid accomptant-general of the ſaid Court of Chancery, and ſave and except ſuch ſhare, right, and intereſt, as ſhall or may accrue and become payable to the ſaid *W. I.* by the death of the ſaid *W. I.* before he ſhall attain the age of twenty-one years, or by the marriage of the ſaid *H. W.* To have, receive, take, and enjoy the ſaid two-fifth parts or ſhares, and all and ſingular other the premiſes hereinbefore mentioned to be hereby aſſigned, or intended ſo to be, with the appurtenances ſubject nevertheleſs and without prejudice to the ſaid then ſeveral hereinbefore in part recited indentures of aſſignment, of the — day of ——, &c. and the —, and — days of ——, &c. and to the truſts thereby reſpectively created and declared unto the ſaid *H. S.* his executors, adminiſtrators, and aſſigns, to and for his and their own proper uſe and benefit abſolutely for ever, and for the conſiderations aforeſaid; and for the better and more effectually enabling the ſaid *H. S.* his adminiſtrators and aſſigns, to recover, receive, and get in the ſaid two-fifth parts, or ſhare and premiſes hereinbefore aſſigned, or mentioned or intended ſo to be, he, the

LEGACY.

To Have,

Power of attorney to receive, &c.

LEGACY. ſaid *W. I.* hath made, ordained, authorized, nominated, conſtituted, and appointed, and by theſe preſents doth, make, ordain, authorize, nominate, conſtitute, and appoint, and in his place and ſtead depute and put the ſaid *H. S.* his executors, adminiſtrators, and aſſigns, his true and lawful attorney or attornies, for him, the ſaid *W. I.* and in his name, or in the name of his executors or adminiſtrators as the caſe ſhall be, and require, to aſk, demand, collect, get in, ſue for, recover and receive, of and from all and every the perſon and perſons to whom it doth, ſhall, or may appertain or belong to deliver, ſurrender up, or pay the ſame, the two fifth parts and premiſes hereinbefore mentioned to be hereby aſſigned, and to give receipts, acquittances, releaſes, or any other diſcharges for the ſame, or any part thereof, and on non-payment thereof, or of any part or parts thereof, to uſe and take all lawful ways and means for the obtaining or recovering the ſame, or compelling the payment thereof, be the ſame by attachment, arreſt, action, bill, plaint, motion, information, appeal, or any other lawful way or mode of proceeding at law, in equity, or otherwiſe howſoever; and alſo as need or occaſion ſhall be, or require to appeal before any judges or juſtices, in any court of law or equity in *Great-Britain, Ireland, America, the Weſt-Indies, Eaſt-Indies*, or whereſoever the caſe may require; and then and there, in ſuch mode, manner, and form, as may be deemed neceſſary or expedient to appear, anſwer, defend, and reply at law, or in equity, in all actions, ſuits, attachments, bills, plaints, appeals, or informa-

tion, which now are depending, or which ſhall or may at any time or times hereafter be brought, commenced, or proſecuted againſt the ſaid *W. I.* his executors or adminiſtrators, for or on account of his ſhare of the eſtate and effects late of the ſaid *W. A.* deceaſed, or any part or parts thereof, and to conſent for him the ſaid *W. I.* by counſel or otherwiſe, in order to enable him, the ſaid *H. S.* to obtain payment of the ſaid two-fifth parts or ſhares hereinbefore mentioned, to be hereby aſſigned, or any part thereof, in the place and ſtead of him the *W. I.* according to the true intent and meaning of theſe preſents; and one or more attorney or attornies, agent or agents under him, the ſaid *H. S.* for the purpoſes aforeſaid, to nominate, ſubſtitute, or appoint; and again at his will and pleaſure to diſplace and remove any ſuch attorney or attornies, agent or agents, and to ſubſtitute and appoint any other fit perſon or perſons to be attorney or attornies, or agent or agents, in the room and place and ſtead of any ſuch attorney or agent ſo to be diſplaced, and generally for and in the name of the ſaid *W. I.* to perform and execute all and every or any other lawful act and acts, thing and things, as ſhall be judged requiſite or expedient for effecting the premiſes, and that as fully and amply to all intents and purpoſes whatſoever as he the ſaid *W. I.* might or could do if he was actually preſent, and did the ſame in his own proper perſon. He the ſaid *W. I.* hereby giving, making over, and transferring to the ſaid *H. S.* his executors, adminiſtrators, and aſſigns, his free and whole power, dominion, and autho-

LEGACY. rity in the premiſes, to every intent and purpoſe whatſoever, and hereby ratifying, confirming, and following, and promiſing, conſenting, and agreeing to ratify, confirm, and allow all and whatſoever the ſaid *H. S.* his executors, adminiſtrators, or aſſigns, or any attorney or attornies, or agent or agents under him or them, or by his or their ſubſtitution or appointment, ſhall lawfully do or cauſe to be done, in and about the premiſes, by virtue of theſe preſents. AND the ſaid *W. I.* for himſelf, his heirs, executors, and adminiſtrators, doth covenant, promiſe, and agree to and with the ſaid *H. S.* his executors, adminiſtrators, and aſſigns, and every of them, by theſe preſents, in the manner following, that is to ſay, that he the ſaid *W. I.* his executors or adminiſtrators, or any perſon or perſons by his or their order, or for his or their uſe, ſhall not nor will accept, take, or receive all or any part of the ſaid two-fifth parts or ſhares hereinbefore mentioned, to be hereby aſſigned, or any part thereof, and ſhall not nor will revoke, or make void all or any of the powers or authorities hereby given, or in purſuance hereof, to be given to the ſaid *H. S.* his executors, adminiſtrators, and aſſigns, releaſe, diſcharge, or compound for, or incumber all or any part of the ſaid two-fifth parts of the ſaid premiſes, mentioned to be hereby aſſigned as aforeſaid, or ſue for or intermeddle with the ſame, or any part or parcel thereof, nor do any thing whereby the recovery or receipt thereof, or of any part or parts thereof, may be impeached, or delay, diſavow, diſcontinue, or become non-ſuit in any action, or ſuit to be

brought, commenced, or proſecuted in reſpect thereof, but ſhall and will from time to time, and at all times, when and ſo often as need ſhall be or require, at the requeſt of the ſaid *H. S.* his executors, adminiſtrators, or aſſigns, avow, juſtify and maintain, ratify and confirm, all and every ſuch actions, ſuits, plaints, petitions, motions, pleas, precepts, judgments, extents, executions, and other proceedings, as the ſaid *H. S.* his executors, adminiſtrators, or aſſigns, or any of them, ſhall lawfully make, take, attempt, commence, proſecute, or bring, in reſpect of the premiſes hereby aſſigned or mentioned, and intended ſo to be, or any of them, or any part thereof, without being non-ſuit, or otherwiſe releaſing, diſcharging, delaying, diſcontinuing, barring, compounding, or hindering, or incumbering, the ſame, or any of them, except it be by and with the ſpecial aſſent, conſent, and agreement of the ſaid *H. S.* his executors, adminiſtrators, and aſſigns, for that purpoſe firſt had and obtained in writing. [Covenants that aſſignor has right to convey, and for further aſſurance.]

RENTERS'S SHARE.

Hath right to convey.

Aſſignment of a Renter's Share in the Play-houſe, to the Truſtee of a Feme Covert by Indorſement.

KNOW ALL MEN by theſe preſents, that the within named *P. I.* and *A.* his wife, for and in conſideration of the ſum of —— of lawful money

Conſideration.

RENTERS'S SHARE.

of *Great Britain*, to them or one of them in hand well and truly paid by *P. H.* of ——, in the city

paid by truſtee.

of ——, eſq. a truſtee named for and on behalf of dame *D. C. E.* wife of *D. W. S.* of ——, in the county of ——, knt. (at or immediately before the enſealing and delivery of theſe preſents, the receipt whereof is hereby acknowledged,) have bargained,

Transfer.

ſold, aſſigned, transferred, and ſet over, and by theſe preſents do bargain, ſell, aſſign, transfer, and ſet over, unto the ſaid *P. H.* his executors, adminiſtrators, and aſſigns, all that the within

Deſcription of rent.

mentioned and deſcribed clear rent or ſum of 2s. of lawful money of *Great Britain*, free and clear, and to be iſſuing, payable, and paid in manner and form, and at the times and place within particularly mentioned, out of the premiſes within deſcribed, and alſo all thoſe the rights, remedies, liberty, licence, power, and authority, incident and belonging thereto, within particularly men-

General words.

tioned, AND ALSO the within written indenture, and all the eſtate, right, title, and intereſt, time and term of years yet to come and unexpired, benefit, advantage, profit, property, claim, and demand, whatſoever, of them *P. I.* and *A.* his wife, and of the executors or adminiſtrators of him the ſaid *P. I.* of, in, to, or out of the ſame, every

Habendum.

or any part thereof, TO HAVE AND TO HOLD all and ſingular the ſaid within granted and hereby aſſigned rent of all the rights, remedies, liberty, licence, power and authority, within mentioned, or in any wiſe incident or belonging to the ſaid rent, and all and ſingular other the premiſes, with their appurtenances, within particularly

given, granted, and confirmed, together with the ſaid within written indenture, unto the ſaid *P. H.* his executors, adminiſtrators, and aſſigns, from henceforth, for and during all the reſt, reſidue, and remainder, of the within mentioned term of 21 years, now to come and unexpired, in as full ample and beneficial manner, to all intents conſtructions, and purpoſes, as they the ſaid *P. W.* and *A.* his wife, or either of them, or the executors, or adminiſtrators of the ſaid *P. I.* might or could have held and enjoyed the ſame, in caſe theſe preſents had not ever been had or made, in truſt, nevertheleſs, and to and for the ſole and only uſe, and benefit of the ſaid dame *D. C. E.* her executors, adminiſtrators, and aſſigns, during the reſidue of the ſaid term as aforeſaid, and to the end, intent and purpoſe that ſhe the ſaid dame *D. C. E.* ſhall and may during the reſidue now expired, of the ſaid within mentioned term of —— years, not only receive, perceive, and enjoy the ſaid clear rent of ——, in manner and form as within mentioned, and preſcribed, and to and for her own uſe and benefit, but alſo that ſhe the ſaid dame *D. C. E.* and not the ſaid *P. H.* ſhall and may during all the reſidue of the ſaid term, have, hold, uſe, exerciſe, and enjoy in her own proper perſon, the ſaid liberty, licence, power, and authority, within given and granted, and hereby aſſigned, of entering, and coming gratis, into any convenient part of the theatre, within mentioned, (except upon the ſtage, or behind the ſcenes,) from time to time and at all times when any theatrical or muſical entertainment ſhall be publicly exhibited and performed,

RENTER'S SHARE.

In truſt for th ſaid feme covert.

RENTER'S SHARE.

at or in the ſaid theatre, there to be preſent at and ſee every ſuch entertainment. AND the ſaid *P. I.* for himſelf, his executors, and adminiſtrators, doth covenant, promiſe, and agree, to and with the ſaid *P. H.* his executors, adminiſtrators, and aſſigns, that for and notwithſtanding any act, deed, matter or thing whatſoever, by him, or the ſaid *A.* his wife, or either of them, made, done, or executed, or wittingly or willingly permitted or ſuffered to the contrary, it ſhall and may be lawful to and for the ſaid *D. C. E.* during the reſidue now unexpired of the ſaid term of 21 years hereby aſſigned to enter and come gratis, into any convenient part of the ſaid theatre within mentioned, (except upon the ſtage, or behind the ſcenes,) from time to time and at all times, when any theatrical or muſical entertainment ſhall be publicly exhibited and performed, at or in the ſaid theatre, there to be preſent at and ſee every ſuch entertainment. In witneſs, &c.

Covenant for quiet enjoyment.

END OF VOL. II.

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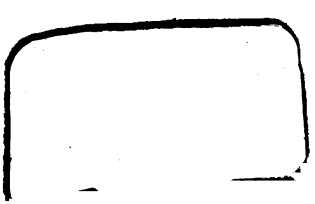
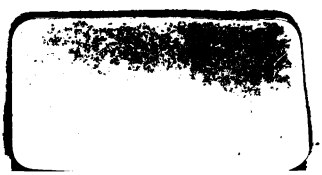
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